DOCUMENT RESUME

ED 388 538 SO 025 103

AUTHOR	Armancas-Fisher, Margaret; And Others
TITLE	Law-Related Education: Linking Language Arts and Social Studies.
INSTITUTION	University of Puget Sound, Tacoma, WA. Inst. for Citizen Education in the Law.
SPONS AGENCY	Department of Education, Washington, DC.
PUB DATE	93
NOTE	267p.; For some related reports from this institute, see SO 025 101-105.
AVAILABLE FROM	University of Puget Sound School of Law, Institute for Citizen Education in the Law, 950 Broadway Plaza, Tacoma, WA 98402-4470.
PUB TYPE	Guides - Classroom Use - Teaching Guides (For Teacher) (052)
EDRS PRICE	MF01/PC11 Plus Postage.
DESCRIPTORS	*Citizenship Education; Instructional Materials; Interdisciplinary Approach; *Language Arts; *Law Related Education; Secondary Education; Social Studies; Teaching Methods

ABSTRACT

This curriculum guide offers an interdisciplinary approach to law-related education (LRE) intended to assist teachers with introducing LRE into a variety of social studies and language arts courses. The materials are designed for a secondary school audience, with adaptations included to make the materials work with "average" readers, fundamental readers, and limited English readers. A social studies and a language arts version are presented for each of the four units: criminal law, family law, environmental law, and individual rights. The guide begins with a definition of LRE, its objectives and methods, and its place in the general school curriculum. The introductory section also includes a description of the University of Puget Sound School of Law's Institute for Citizen Education in the Law (UPSICEL) and a history of this curriculum project. The lessons encourage interactive and cooperative learning through the methods of brainstorming, hypotheticals and case studies, role playing and simulations, group activities, opinion polls and journal writing. Each lesson plan includes the number of class periods, the need for resource persons, the objectives, procedures, and new vocabulary. The lessons include student handouts and modifications for limited-English speakers. (JD)

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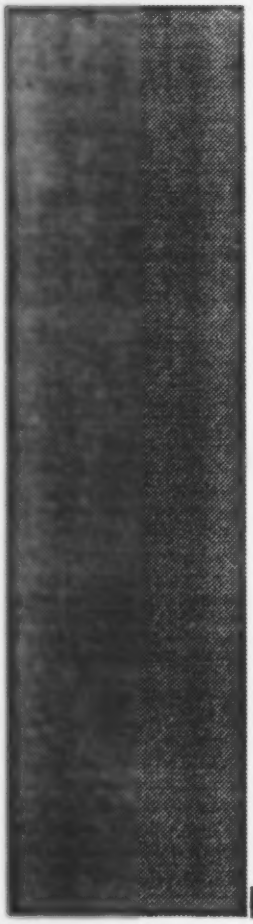
Law-Related Education:

Linking Language Arts and Social Studies



A Publication of UPSICEL

Written by

Margaret Armancas-Fisher

Julia Ann Gold

Anne Enquist

Funded By ESEA Chapter 2 Funds

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Acknowledgments

UPSICEL wishes to thank the Office of the Superintendent of Public Instruction for selecting this project for funding under the U.S. Department of Education's Chapter 2 " 20% Grant" program.

Thanks go to Marjorie Vernell, Jim Sole, and Jacky Graupner—the three teachers who field tested the curriculum and reported on their results. They provided invaluable insight.

The translations were accomplished through the expert assistance of Angelique Nguyen-Wiegand, Ann Tran, and Zulema Borges. Their efforts are appreciated.

The secretarial staff at the law school was quite helpful in completing the initial manuscripts.

Dennis Martin of WORDESIGN deserves a loud and sincere thank you for bringing a professional look to our publication through his desktop publishing efforts.

FUNDED BY A CHAPTER 2 "20% GRANT"
$43,500 IN FEDERAL FUNDS (70% OF THE PROJECT)
$18,825 IN NON-FEDERAL FUNDS (30% OF THE PROJECT)

Introduction

What Is Law-Related Education?

A Definition of Law-Related Education (LRE)

According to the Law-Related Education Act of 1978[1]

> *...the term law-related education means education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process, and the legal system, and the fundamental principles and values on which these are based. Law-related education (LRE) helps students develop the knowledge, skills, understanding, and attitudes necessary to function effectively in a pluralistic, democratic society based on the rule of law.*

LRE teaches young people how the legal and political systems function and—most of all—how they fit in. How does the law affect them and how can they affect it? What relevance does the Constitution have in their lives? Why have certain legal procedures been established and how well have they worked in resolving disputes?

LRE is about real issues as they affect real people: little people and big people. At its best, LRE teaches students to reason through hard questions and to grapple with realistic problems. Elementary school children might be asked to puzzle through questions of fairness in the water-fountain line or examine the need for rules in sports and games. Older students might look at the problems of assuring equality in a diverse society or the conflict between rights and responsibilities. The emphasis often may be on applied skills, such as how to read a contract and become a wiser consumer, or may be on such broad skills as analytical thinking, ability to persuade others, and ability to reach decisions after having identified issues and weighed evidence.

Law-related education is active. It teaches because it involves kids. It works because it has them confront—in case studies, roleplays, mock trials, and other active instruction techniques—the actual dilemmas that citizens must face if they are to make democracy work. In many programs, students meet with lawyers, judges, police, and other community people to see the law in action.

LRE is a proven way of improving younger people's self-image, their attitudes, and their knowledge about law and government. The experience of hundreds of communities, large and small, shows that LRE can make a difference.

Delinquency Prevention

Another key aspect of law-related education is that when it is *properly* taught, it reduces delinquency and leads to positive

citizenship behavior. The Center for Action Research identified six criteria for effective LRE programs.[2]

Four of the six characteristics that make up a properly conducted program relate to the curriculum. They include preparation and use of outside resource persons; sufficient quality and quantity of instruction; selection of balanced, illustrative materials and management of controversy; and active participation and student interaction. These criteria are built into the design of this curriculum.

Preparation and use of outside resource persons refers to using a wide variety of appropriate community members in an interactive manner in the classroom. Simply having community members as formal speakers is not sufficient. For example, having a community member respond to students' opinions in an opinion poll or judging a mock trial is more effective than having the resource person lecture students about a topic.

Sufficient quality and quantity of instruction refers to using instructional practices that enhance the likelihood that students will be successful; such practices include checking for understanding, employing sufficient wait time, stating learning objectives, sequencing questions, and others.

Quantity of instruction relates to the amount of time devoted to a single topic and the amount of instructional time spent on law-related topics. While there is no magic number of hours, research suggests that students need enough time to grapple with a topic in some detail, to examine nuances of the issue and to feel some mastery over the topic.

Use of balanced materials and management of controversy constitute the third curricular area considered. Findings in this area indicate that material that shows the judicial and law enforcement systems as always correct or always making mistakes has a negative impact on student attitudes.

Consistently negative examples engender disrespect for the law and judiciary while consistently positive examples do not mesh with students' knowledge that mistakes and injustices do occur. When students feel that the examples are too positive, they may reject all information transmitted through a course. Therefore, examples should be chosen to reflect the realities of law and the judiciary. If a negative example is chosen to illustrate one point, a positive one should be selected for another.

Management of controversy does not mean that it should be avoided, but rather that it should be approached in a positive and constructive manner. Students must recognize that differences of opinion are natural and can be a fruitful vehicle for exploring the various positions that can be taken on any issue. However, for controversy to be beneficial, students must examine and discuss the issues in a thoughtful way, avoiding personal attacks that can be hurtful and destructive.

Opportunities for active participation and student interaction represent the final curricular factor influencing delinquent behavior. Activities that require students to work together cooperatively and encourage student-student communication have a positive impact. Likewise, activities in which students become actively engaged in the learning process are also beneficial. For example, students might interview other students, assume the roles of lawyer or judge or lobbyist, or prepare for a Senate committee hearing rather than passively read.

While each of these factors is clearly influenced by the curricular materials, one must recognize that ultimately the curriculum is what students experience in their classes. Teachers' instruction methods and what they do with the curricular materials available will determine their effectiveness. Inappropriate use of even the best materials will negate their effectiveness. For example, this curriculum makes suggestions for community resource persons who could assist in the curriculum's delivery, but instructors actually determine if that recommendation will be followed. Similarly, quality of instruction will largely be determined by the instructor's choice of instructional practices rather than by the curriculum. The role of the teacher, then, is all important.

How LRE Fits into School Curriculum

Traditionally, LRE has been incorporated in the offerings of social studies, particularly civics and U.S. history, or vocational business law classes. In recent years, teachers in other disciplines have considered whether LRE might also work for them. Law magnet schools in the United States offer science and language arts classes that use LRE.

Language Arts can easily benefit from the use of law-related topics and teaching methods. Students' natural interest in the law motivates them to read, apply grammar rules, write, study literature, and practice speaking and listening skills.

This publication offers infusion lessons for social studies and the language arts. The ideal way to use this curriculum is for an English teacher and a social studies teacher to team teach. The materials are designed for a secondary school audience, with adaptations included to make the materials work with "average" readers, fundamental readers, and limited English readers.

UPSICEL

(University of Puget Sound School of Law's Institute for Citizen Education in the Law)

UPSICEL was created in 1987 to promote law-related education (LRE) in Washington State, as well as in national and international arenas. It built upon the Street Law Course offered at the UPS School of Law that has made LRE a part of Tacoma schools since 1982. The goals of the Institute are to increase awareness of rules that govern everyday behavior, promote values of democracy and understanding of the Constitution, increase effective citizen participation, promote willingness to use legal means to resolve disputes, and increase levels of tolerance, fairness and respect for the rights of others.

The Institute has developed LRE curricula in several areas: the Washington Supplement to the national *Street Law* text; *Community Service Guide to Law Related Education* with accompanying video, "Hearts and Minds Engaged"; *Juvenile Justice in Washington State*; *Teaching the Bill of Rights*; *Linking Law and Social Studies*, and a law school manual *Teaching Law Students to Teach*. UPSICEL cooperated with Mississippi Educational TV to produce "You've Got That Right," a video series on the Constitution for use with "at risk" ninth graders.

A major component of UPSICEL's work is conducting teacher training. UPSICEL

offers LRE training programs for kindergarten to adults in a broad area of topics and methods, including drug focused LRE, survival law for limited English speakers, interdisciplinary LRE, detention LRE for juveniles and adults, minority outreach LRE, and corrections and probation officer training.

Since 1988, UPSICEL has served as the state coordinator for LRE on behalf of the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention.

Jointly with the American Bar Association's Special Committee on Youth Education for Citizenship, UPSICEL hosted a three-state minority outreach LRE conference in 1991.

UPSICEL is presently one of five states selected to collaborate with the Social Science Educational Consortium in Colorado in the development of a practical guide to authentic assessment of LRE.

The Institute coordinates LRE activities with the Southern African country of Lesotho. The Institute hosts lawyers and educators from LRE projects in other countries to participate in Washington's LRE efforts.

The Institute has compiled a comprehensive directory of LRE materials, events and resources for use in Washington, *Teaching About the Law: A Law Related Education Directory for Washington State*. It is now available as a database on Macintosh or IBM format.

UPSICEL is represented on the Board of Directors of the Washington Center for Law-Related Education, the Advisory Board of the Washington State Council for the Social Studies, and its Director was the 1989 Chair of the American Association of Law Schools Section on Teaching Law Outside of Law Schools.

The Institute is directed by Margaret Armancas-Fisher, an attorney who has worked in LRE full-time on the national level since 1977 and in Washington State since 1982. Julia Ann Gold, an experienced trial attorney with a rich variety of LRE experience with a special emphasis on mediation, is Deputy Director.

UPSICEL has been funded by:

- American Bar Association's Special Committee
- Governor's Juvenile Justice Advisory Group
- The Greater Tacoma Community Foundation
- Legal Foundation of Washington
- National Institute for Corrections
- National Institute for Citizen Education in the Law
- State Justice Institute
- United States Department of Education
- United States Department of Justice

A History of the Project

UPSICEL became aware of the move toward more integrated curriculum in secondary schools through its own efforts to develop integrated LRE curriculum. UPSICEL developed a few language arts lessons for teachers as part of *Linking Law and Social Studies*, published in 1990. Language arts teachers noted the great

value of LRE in teaching English objectives and asked for a substantial LRE curriculum for English teachers.

Additionally, multi-culturalism is increasing in Washington schools. UPSICEL realized that LRE can be an ideal way to link various disciplines together, while reaching out to every level learner. Students at every level respond enthusiastically to the high interest legal topics and the participatory methods. UPSICEL determined that there was a significant lack of materials with substantive content to address these educational developments.

At the same time, UPSICEL became aware of rich Language Arts resources on the faculty of the Law School. UPSICEL discussed the possibility of a collaboration with Christopher Rideout and Anne Enquist, both adjunct law professors.

Christopher Rideout was invited to provide an overview of the latest research in language arts theories and current methods.

Anne Enquist was invited to develop the complementary language arts component of the curriculum. As the Language Arts Consultant for these Law-Related Education units, Professor Enquist drafted and revised the language arts materials. Professor Enquist is currently teaching at the University of Puget Sound Law School in Tacoma, Washington in the legal writing program. She recently co-authored *The Legal Writing Handbook: Research, Analysis, and Writing*, which was published by Little, Brown and Company in 1993, and she has written numerous articles on issues related to legal writing.

A certified teacher of Language Arts in grades 4-12, Professor Enquist's background includes teaching at the high school, community college, and university levels. She has also served as the editor of the *Washington English Journal*.

In addition to the academic writing Professor Enquist has done, she has also written articles that have appeared in the *Boston Globe*, *Women's Day*, and *American Baby Magazine*. She is currently writing junior novels for readers age 10-14.

Once the grant was awarded, three teachers representing the three levels of readers were selected to serve as advisors and field testers. Marjorie Vernell teaches primarily fundamental readers at the King County Juvenile Detention School. Jim Sole teaches every level reader at Wilson High School in Tacoma. Jacky Graupner teaches English as a Second Language at West Seattle High School.

These teachers met in November 1992 to brainstorm unit topics and make suggestions for the writing of the curriculum. In March 1993, these teachers met to receive the curriculum for field testing.

By May the field-tests were over and the curriculum revised for the June training of teachers drawn state wide.

The Handouts in two units were then translated. Angelique Nguyen-Wiegand edited the translations of Ann Tran in Vietnamese. Zulema Borges translated the handouts in Spanish.

These lessons made their debut in June 1993 at a Summer Institute for 40 teachers drawn state wide.

How to Use This Curriculum

The curriculum is composed of four units—criminal law, family law, environmental law and individual rights law. Each unit has a section labeled "social studies" and a unit labeled "language arts." The labelling is not meant to be directive, because language arts and social studies teachers may easily use any or all of the lessons, regardless of how they are labelled.

These units provide explicit instructions for teachers and accompanying handouts. However, the lesson plans are intended only as guides. Teachers may decide not to cover every point made nor should the teacher read word-for-word except to give hypotheticals or quote facts as needed. Only the handouts are to be distributed to students.

One way to deliver this curriculum is to have a language arts teacher and a social studies teacher working together. Each language arts lesson includes a notice regarding sequence that indicates at what point in relationship to the social studies lesson it would be appropriate to conduct this lesson.

Another way to deliver this curriculum is through the social studies teacher or just through the language arts teacher. Social studies teachers may want to consult with the language arts teachers in their school, and vice versa, about any parts of the lesson that they feel they are not completely equipped to teach.

For specific information about teaching methods for poetry, drama, short stories, or composition, social studies teachers may want to write to the National Council of Teachers of English, 1111 W. Kenyon Road, Urbana, Illinois 61801-1096, or call NCTE at (217) 328-3870. NCTE has numerous publications that can quickly bring a teacher up to speed in these areas.

Two of the four units are accompanied by up to three versions of each handout—for "regular" readers, for fundamental readers (including special education and mainstreamed limited English), and for first level ESL speakers of Vietnamese and Spanish in their native languages.

The social studies lessons appear at the beginning of each unit. A brief description introduces the lessons in that topic.

Next, the lesson plan lists the specific learning objectives for each lesson. Any materials needed for the course are identified, including the accompanying Handouts.

As stated, the use of outside community resource persons in an interactive manner with students is a critical component of successful LRE. Therefore, suggestions on who may be a useful resource for the classroom are indicated for every unit.

A vocabulary of legal terms is provided for specific legal words that are used in the unit. The language arts lessons also define nonlegal words that students may likely not know. The first two units include translations of the vocabulary in Spanish and Vietnamese.

Next, the procedures are laid out. Answers are provided in this section to the questions and activities presented in the Handouts.

Handouts are identified by handout number. Teachers will need to select the correct version of the handout—the smaller type for regular readers, the larger print for fundamental readers, or the foreign language versions. In some cases, the teacher may choose to hand out more than one version of the handout in the same

class. For instance, if a mainstreamed limited-English speaker is having trouble understanding the English version, the teacher could provide the native language version.

Handouts for fundamental readers are printed in larger type and are recognizable by this symbol at the top.

After selecting the right handout, the teacher should reproduce the handouts prior to class in sufficient number for students. The original should be kept clean and returned to the three-ring binder for subsequent use. The teacher should be careful to identify all the pages to each Handout since many Handouts have more than one page.

Included throughout the units are suggested teaching strategies designed to encourage student participation in the classroom. A minimum of lectures and a maximum of student involvement have been found to be most successful in using this type of curriculum. The various methods included in the curriculum are briefly capsulated below. They are merely included as a refresher and an indication of how they fit into this curriculum.

Small Groups

Used in conjunction with a number of other strategies, small groups are a very effective tool for promoting cooperative learning and student interaction. Small group learning, like so many other teaching methods, can yield wonderful results if teachers, and students, learn how to maximize its potential advantages and minimize or even eliminate its potential disadvantages.

Among the many potential advantages these units try to promote, the principal advantage is the high level of student interest and involvement that is possible in small group learning experiences.

Carefully structured, small group learning activities can all but ensure active learning by every student in the class. The key, though, is the phrase "carefully structured." For small group learning to work successfully, the tasks given to groups must be carefully thought through and structured so that the group knows what it must do, stays on task, and manages its time according to a pre-arranged timetable.

Group Size. Although there is no required size for a small group, three to five members seems to work best for most tasks. Occasionally, pairs work better if group members are collaborating on a writing task or are editing each other's work. Groups of six or more tend to become unwieldy. They lose some of the advantages of small group learning because a given member of a six or more person group can still sit back passively rather than participate actively.

Within the three to five member range, you may choose smaller or larger groups depending upon the nature of the task, the total number in the class, and the personalities in the class.

Group Composition. Although it is possible for a fairly mature class to break into groups on its own, it is usually best if the teacher assigns who is in each group. In making group assignments, always consider four things:

1. Which students in the class do not get along.

2. Which students in the class are natural leaders.
3. Which students in the class try to dominate discussions.
4. Which students in the class are quiet by nature and more likely to slip into a passive role even in a small group setting.

Obviously, you will want to separate arch enemies, if at all possible. It is also a good idea to put at least one natural leader in each group. You may even want to assign that student the role of group leader. Emphasize to the group leaders that their job is to make sure that everyone in the group participates. They may need to ask quieter students to share their ideas, and they may need to ask more dominating students to let others have a chance to speak.

Students who try to dominate discussions should also be placed into separate groups. It is often a good strategy to assign these students to the role of recorder because the recording task inhibits their ability to dominate the group orally.

Once a class has had some good small group learning experiences, you can begin to make some changes to the groups' composition. For example, quieter students may now be ready to be assigned the role as group leader, and natural leaders can become recorders.

Structuring the Assignment. As a rule, give the instructions orally before you divide the class into groups. Once the students are in groups, many will be more interested in each other than in what you are saying.

After the oral instructions, divide the class into groups and give each group a location in the room in which to work. Then give each group written instructions that outline the tasks it is to perform and your recommended timetable. The written instructions will repeat what you said to the whole class orally.

In most cases, you will want to assign or have the group select a group leader and a recorder. You may also want to assign a timekeeper. The timekeeper's job is to make sure the group is staying fairly close to the recommended timetable in the instructions.

Designing the Small Group Tasks. Rule #1 is to make sure the students have the knowledge and background to perform the assigned small group tasks. For this reason, it is often a good idea to have a preliminary class discussion about what it is the group will be doing. For example, a whole class brainstorming session like the one used in the search and seizure lesson sets the stage for the small group task that follows. Later in that unit the whole class discussion on realistic dialogue is necessary preparation for the writing of dialogue.

Rule #2 is to number the sub-tasks that each group must do and give a recommended time allotment for each sub-task. Without numbered sub-tasks, students overlook steps; without time allotments, students spend too much time on some tasks and not enough on others. The time allotments also promote efficiency and lessen the problem of different groups finishing early and others late.

Rule #3 is to require students in groups to keep a record of what they are doing and deciding. Whenever possible, have groups report back to the class as a whole. In this way, you can monitor their progress and

keep them accountable for the group's work. Do not feel, though, that you need to hear from each group each time you ask one to report back to the whole class. Often having just two groups out of six report to the class as a whole is enough to keep all the groups progressing. Obviously, though, you will not want to let the groups know in advance that you will be selecting only a few groups to report to the whole class. All should prepare and be ready to report.

The Teacher's Role. The primary role of the teacher in small group learning is to devise the small group tasks so that they are successful learning experiences. Carefully thinking through and preparing handouts that set out the sub-tasks and timetable are critical contributions the teacher makes to small group learning.

Teachers also play a key role in small group learning by deciding the groups' composition. Especially as a class is first learning to work in small groups, the teacher's decisions about who to put together and who to assign to the roles of leader, recorder, and possibly timekeeper can make the difference in whether small group learning is successful or not.

While the groups are working, the teacher can play a number of roles. As much as possible, stay out of the way of groups that are working well on their own. Very successful groups may only need to be monitored at the end of a class period.

Most groups, however, will need some teacher help and intervention. After assigning the group tasks, return to your desk and work on something else while you unobtrusively listen to how the groups are getting started. Later, once the groups are rolling, you may want to "float" around the room to quietly check on each group's progress. If a group is in trouble, you may need to join the group for a while, but try not to co-opt the group. Sit slightly outside the circle. Try not to tell the group what to do; rather, make one or two suggestions and then leave. After a few minutes, float back by the group to see how it is doing.

During the few minutes that you join a group, it is critical that you signal to the group that it is still responsible for the group's work product and that you are not slipping back into the traditional teacher role. You may notice, for example, that a group is temporarily stalled. Just walking over, listening for a minute, offering one suggestion, and leaving may be all it takes to get that group moving.

If you do sit down with a group for a few minutes, even if you sit slightly outside the group, there will be a natural tendency for the members of the group to start directing all their comments to you and start looking to you for the answers. "Toss the ball" right back to them as soon as you think they can handle it by answering their questions to you with a "what do you think?" You can also subtly suggest that they should be relying more on each other by simply breaking eye contact with students who insist on directing their comments and questions to you. A very direct "you can figure that out together" followed by your leaving the group also works well.

As the teacher, you should also play the role of overall timekeeper. Even if you have assigned group timekeepers, you may want to occasionally announce where groups should be in the total task. Saying aloud to the whole class "you should have completed your first scene and be starting on the second one by now" reminds the one or two wayward groups that you expect them to

use their time wisely and stay on task.

The final part of the teacher's role is, of course, as the evaluator. Even though you will be evaluating and grading a group's work at the end of a project, you should also help them assess their progress along the way. For example, when groups are reporting on their progress to the class as a whole, have the recorder make the group's presentation. Other members of the group may want to add a few points, but then you should take over and comment on what the group is doing well or on what problems you see in the work product they are developing. Ask the class for suggestions on how to solve problems, and let the group know which of the suggestions you consider the most valuable.

Freeloaders. Good students who dislike group work usually feel that way because they have had experiences working in groups in which some members did as little as possible and took the same amount of credit as hardworking members. We all resent freeloaders almost as much as we appreciate those who do more than their share, and there is no easy "fix" for this problem.

As a teacher using small group learning activities, you may decide that freeloaders are just a fact of life and part of what students learn from small group activities. Students will complain "that it is not fair," but then you may decide to remind them that no one, not even you, can guarantee that things will always be fair.

You may also decide to incorporate features into the small group tasks that make it more likely that the workload will be shared evenly. Assigning roles helps, but giving a role with lots of responsibility to a student with a reputation as a freeloader may backfire and lead to an unsatisfactory work product for the whole group.

Two other strategies can be used by the group members themselves, but these also have obvious risks. First, you can allow a group to "fire" one of its own members for unsatisfactory work performance. Before a firing procedure even begins, discuss the whole procedure and its consequences with the entire group. Firing must be preceded by an adequate warning with an opportunity for that student to change his or her ways. Before a group can fire one of its members, it must demonstrate to the teacher that it gave the member in question adequate warning and that the student has *seriously* shirked his or her work responsibilities. Firing cannot be done because of personality differences, and it should not be based on an individual's popularity. A student whose firing from a group has been supervised and approved by the teacher is then responsible on his own or on her own for the total work normally done by a group.

Second, you may want to come up with a procedure whereby group members evaluate each other's contributions to the group's work product. These evaluations should be done anonymously. You may simply ask students to write two or three sentences about which students did the most work in their group and therefore deserve the most credit. You may also ask each of them to fill out a form, again anonymously, that shows what percentage of the total work product they estimate was done by each member. Remind them that the total should add up to 100%. You may want to factor these evaluations into your grading and evaluation of individual students.

Example:

Group #3	
Jason	5%
Matt	35%
Karen	20%
Chris	20%
Lee	20%

Brainstorming

This method calls for the students to come up with a list of responses to a question posed by the teacher. It is usually best to write these responses on the board as students answer and, after the class' suggestions are exhausted, to add any overlooked answers and then discuss them in more detail.

Hypotheticals and Case Studies

This method presents a statement of fact and requires the application of some aspect of the law to these facts. While the "answer" to the problem is important, the greater value lies in using questions and other discussion techniques to bring out arguments and considerations on all sides of the issues. Most of the hypotheticals (included as handouts or written into the teacher guide) are based on real cases—the use of these enhances student interest and learning. Suggested steps to take in discussing a hypothetical or case study follow.

- Have the teacher, or a student who is a good reader, read the hypothetical aloud.
- Ask other students to list the key factors in the case (write on the board).
- Ask what the issues are in the specific case. Ask students to state each issue as a question.
- Ask students to give arguments on both sides of the issues. Discuss and try to remain unbiased
- Ask the students what they thought the decision was in the real case. Tell them what the decision was and the reasons for it. Ask if this was the correct decision. Why or why not?
- What was the significance of the decision? What reasoning did the court use to arrive at the decision? Did it set a precedent for the future? Is it likely to be changed in the future?

Role Plays and Simulations

Mock trials and oral arguments (called moot court) are simulations of actual courtroom activities. The activities are designed to focus student interest on a particular law or procedure while allowing them the opportunity to demonstrate the knowledge they have acquired. These activities also allow students to gain different perspectives by observing the role of another and allow them to practice persuasive skills.

There are three stages of development in any role play: preparation, enactment, and debriefing. The preparation stage involves assignment of roles, explanation of the process and preparation time for the players to learn their roles. Many of the hearings are simplified to allow completion in a single class period; others are designed with one or two days of preparation. Roles

are provided for the entire class to participate. Students without specific roles can serve as observers who must write decisions.

Teachers should play a low-key or even invisible role during the enactment of the mock hearing. In certain instances, where the activity has gone way off track or part of it is taking too long, it may be appropriate for the teacher to step in and make suggestions or ask questions.

The most important of these stages is the debriefing, which should use questioning to raise questions such as: What were the key issues raised in the hearing? What is the law or principle that was involved here? Were the participants realistic and effective in their roles? Could they have performed their roles differently? Were there arguments not made that you would have made? How would you have decided the case? Was the proceeding fair?

Visual Aids

Pictures and charts are also useful ways to present information. Students studying Old Growth Forests, for example, examine ads designed by the timber industry and environmental groups.

Opinion Poll

An opinion poll is a strategy that allows students to express their opinions on the topic of study. Typically, a poll allows for a spread of opinions (agree, undecided, disagree). An opinion poll can serve as a springboard for classroom discussion, give the teacher feedback on student values, be used to assess changes in students' attitudes following instruction and lay the foundation for how the law in fact applies to the situation described.

To conduct an opinion poll, the teacher should have each student privately express his or her opinion (for example, by writing the appropriate response on the student handout). The teacher should then develop a class composite. This can be done by a simple show of hands, by having students move to align themselves under a banner agreeing with their position, or other creative ways. Finally, students should be asked to identify their opinions and list opposing points of view.

The instructor can use various poll items dealing with the same principle to check the consistency of student beliefs. Afterwards, the teacher should then present information as to the state of the law in Washington on the items in the poll. It is important that teachers recognize that varying shades of opinions are legitimate, even when opinions differ from the law or the teacher's own views. Students, however, are expected to give reasons for their opinions. It is useful to use the opinion poll as a demonstration of the legislative process which evaluates various values and designs statutes based on the majority's values.

Advertisements and Editorials

Analyzing advertisements and editorials related to LRE topics allows students to explore the various facets of effective communication. In the Environmental Law Unit, students write ads about the spotted owl controversy for specific purposes and specific readers. In the Individual Rights Units, students examine several real world editorials and then write editorials of their own. By using real world writing situations like ads and editorials, students see the practical realities of effective communication and persuasion.

Questioning

Questioning is used in this material to:

1. Check for student understanding.
2. Solicit student opinions on controversial issues.
3. Teach higher level thinking skills.
4. Lead students to an answer the teacher desires.

In each case, teachers should try to equalize wait time (that is, the time given to students to respond to a particular question). It is also desirable to promote student-to-student questioning and discussion where appropriate.

Journal Writing

Keeping a journal encourages students to reflect on the material presented in the LRE units. It allows students to pursue an idea and record their own reaction to what happened in class. Journal writing is the natural seedbed for larger, more formal written discourse.

Lecture

This method should be limited as much as possible since great use of lecturing will be of negative value. However, there are times when certain points may be made most appropriately by lecture. It is important to give examples, ask questions and brainstorm during a lecture.

Evaluation

Teachers should use a variety of methods to check frequently for student understanding. Question and answer techniques and short hypotheticals are useful to measure class progress and understanding. The lesson objectives are useful guides to writing questions for review.

Resource Persons

The characteristic of law-related education that has the greatest potential for having a positive impact on students' behavior is the appropriate use of outside resource persons. Using lawyers, courtroom personnel, judges, police, state inspectors, social workers, and other key resource persons in the classroom is important.

Suggestions are made in each unit as to possible resources persons and their role in the class.

When contacting resources, it is extremely important to inform them of the goals and objectives of the class and to review briefly the classes that come before and that will follow in order to allow for continuity. Share a copy of the lesson with the resource person, who may devise a way to interact successfully with the students.

Journal Writing

Journal Writing Objectives

- Students will write frequently, ideally daily, in order to increase fluency.
- Students will see writing as a normal, everyday activity rather than as a forced, infrequent activity.
- Students will learn to use writing as a way to explore ideas and articulate their thinking about a topic.
- Students will learn to use exploratory journal writing as groundwork for assigned papers.

Materials

- Each student should have an 8½" x 11" spiral notebook that is devoted *solely* to journal writing.
- Journal Writing Handouts A and B

Procedures

■ **Explain to the students** that they will be keeping a journal as part of their study of law-related topics. In the journal, they will record their reaction to the readings and activities in these units. They will also be expected to use the journal to explain some ideas in their own words.

■ **Pass out Journal Writing Handout A** and read it over with the students.

■ **Assign journal writing** frequently. Occasionally allow in-class time for journal writing. Ask at the beginning of the next class how the journal entries are coming. Occasionally, ask if anyone is willing to read or talk about a journal entry from the day before.

■ **Collect journals** at regular intervals for assessment. To keep students motivated and in the habit of journal writing, make the first collection of journals for assessment no more than two weeks after the journals are begun. Follow up on the bargain not to grade them for grammar and spelling. Respond instead to the content of what the students have written.

■ **Journal Writing Handout B** gives students sample journal entries for the Environmental Law Unit. Pass out Journal Writing Handout B, and tell students these are examples of the type of journal entries they can write.

■ **The following** are examples of journal triggers that can be used with the Environmental Law Unit. Other journal trigger suggestions are in the other units. Teachers are also encouraged to write their own journal triggers for each of the units.

Sample Journal Triggers

Word Choice. Some people refer to "harvesting trees" while others call it "mining trees." Is there a difference between the two labels? What does "harvest" suggest that "mine" does not? Which groups are likely to call it "harvesting trees" and which groups are likely to call it "mining trees"?

Listening for the Facts. Have students view the film National Audubon Society Special video entitled "Ancient Forests: Rage over Trees" that was done for PBS in 1990 (available through your public library). Ask students to take notes about the "facts" that each side uses to make its case about whether old growth forests should be cut or preserved. Have the students divide a piece of paper in half vertically and put the timber industries facts on one side and the preservationists facts on the other. If possible, have students align contradictory facts from the two sides.

Example:

Timber Industry "facts"	Preservationists' "facts"
1. There are plenty of old growth forests.	1. The spotted owl is dying out.

Listening for Bias. After viewing the video "Ancient Forests: Rage over Trees" decide if the presentation was balanced. Did each side have an opportunity to give its point of view persuasively? Did you think the producer of the film held a particular opinion about the ancient forests controversy? Why or why not?

Reaction to a Videotape. After viewing the video "Ancient Forests: Rage over Trees," write about whether you think the two sides will be able to sit down together to come up with a solution. Why or why not?

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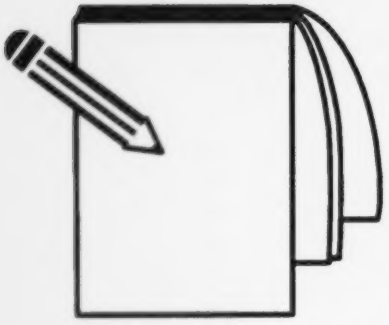
[1] Statement adapted from the Winter 1983 *LRE Project Exchange*, "Why Lawyers Must Care About LRE," published by the American Bar Association.

[2] Judith Warren Little and Frances Haley, *Implementing Effective LRE Programs* (Boulder, Colorado: SSEC, 1982). See also Robert M. Hunter, "Law-Related Education Practice and Delinquency Theory," *The International Journal of Social Education*, 2 (Autumn 1987): 52-64.

Directions For Journal Writing



1. Use an 8½" x 11" spiral notebook that you will use only for journal writing. Do not use it for other assignments for this class or for any other class.

2. Date each entry in the journal.

3. If a question or topic has been assigned for journal writing in class, write that question or topic below the date of your entry as though it is the title of the entry, and then be sure that you write about that question or topic. You may also write other entries of your own in the journal, as long as they are about the topics being discussed in this class.

4. Journal writing is rough, *first effort* writing. In other words, write freely without worrying too much about the rules of grammar and punctuation or about spelling. Keep the writing legible though.

5. Journal writing is a way to explore ideas, so don't be too concerned about what position you take on an issue or worry if you start changing your mind about something after you have written about it.

6. There is no magic length about how long a journal entry should be. Usually you will want to write at least one or two paragraphs about the journal question or topic; sometimes you may find that you have a page or two of things you want to say.

7. You will not be required to read your journal entries to the class. At times, I may ask if anyone has written an entry that he or she is willing to read, but I will not force you to share what you have written in your journal with the class.

8. Your journal will be graded in the following way:

   ■ First, I will look to see whether you have done all the assigned journal entries. That is why it is important to date and title the entries.

   ■ Second, I will look to see if you have written a "reasonable amount" on the assigned topics and questions. Third, I will read the two or three entries that you select as some of your best. A good entry is not necessarily a long entry; select the two or three in which you feel you dealt with the question or topic in depth. (Mark those entries with a paper clip at the time I collect the journals.)

9. Staple these directions in the back of your journal.

Sample Journal Entry #1

September 15, 1993

Reaction to videotape "Rage over Trees"

I liked the video we saw in class today because it showed me in pictures rather than just told me in words what is at stake in this issue. It was painful to see the earth scarred like that. I'm really worried that there won't be any forests left for my kids, when I get around to having them.

But I felt for the loggers too. It would be terrible to lose your job so that a bird could be saved. I know there is more than owls at stake here, but how are these loggers gonna live? I really hope the President comes up with a way to save the forests and the loggers too.

Sample Journal Entry #2

September 20, 1993

"Harvesting trees" versus "mining trees"

I had never thought about it before but I see now that there is a big difference over whether we call it harvesting trees or mining trees. To me, harvest means you have planted something, taken care of it, and have a right to cut it down when it is ripe. Mining makes me think of coal mines. Who ever heard of coal growing back? Whoever heard of taking care of coal? But you know, I do think that whoever owns the land that coal is on has a right to do with it whatever he wants. So do I think that about forests? Hmm, that's harder to say. Don't forests kind of belong to everyone? Well, maybe natural resources like coal does too. Now I'm getting myself more confused than ever. This is more complicated than I thought. What was the question anyway? Oh yeah. Harvest vs. mine. Trees grow back but coal doesn't. But will ancient forests grow back. I don't think so, at least not from what I'm learning in class. Maybe they grow back after a zillion years. I don't think we can wait that long.

Search and Seizure in Washington

Description of Unit

This unit explores the conflict of privacy and law enforcement, including officer safety. The social studies lessons present the constitutional right to be free from unreasonable seizures as protected under the U.S. Constitution and Washington Constitution. Students examine the legal requirements of warrants and conduct a case study to apply their knowledge. Students examine the limits on police conduct in making investigatory stops and consider some of the consequences in allowing police to use "profiles" to determine whether or not to stop. An additional lesson is specifically targeted to limited English speakers.

The language arts lessons explore search and seizure law as it applies to students in a high school setting. Students create a plot that revolves around a search and seizure incident that might occur in a high school. They develop characters and dialogue and put them all together in a short play with five scenes. A version of the lesson is specifically targeted for limited English speakers.

Social Studies Objectives

- Students will list the U.S. Constitution and Washington State Constitution as sources for law regarding search and seizure.
- Students will identify the competing values of police powers to enforce the law versus privacy interests of individuals underlying search and seizure law.
- Students will identify legal requirements of searches with and without a warrant.
- Students will define the exclusionary rule.
- Students will recognize their own views on the balance between privacy and efficient police work.

Materials:

- Handout 1-1: Search and Seizure under U.S. and Washington Constitutions
- Handout 1-2: Search and Seizure Cases
- Handout 1-3: Search Warrant Case Study
- Handout 1-4: A Police Stop Roleplay
- Handout 1-5: Police Stop Case Study Using Profiles
- Handout 1-6: Police Stop Of Blacks In A Mainly White Neighborhood: An Unmarked Opinion Case Study
- Handout 1-7: The Individual Is Not Guilty: Case Study 1
- Handout 1-8: The Individual Is Guilty: Case Study 2

Time Estimate
This will take 4 to 6 days if all activities are done. However, selected lessons may be extracted and used as stand alone one-day lessons.

Use of Outside Resource Persons
- A police officer could describe how investigatory stops and searches are carried out.
- An attorney who practices criminal law could assist in presenting the law on searches and seizures.
- A magistrate (judge) could describe how he or she determines whether or not probable cause is present, and could bring in sample warrants from the court. Additionally, the magistrate could comment on recent cases in the local area where evidence was thrown out because of faulty searches.

Vocabulary
Exclusionary rule applies to the ban on the use of evidence that is illegally obtained, for example in an illegal search or from an illegal stop. Illegally obtained evidence may not be admitted into evidence at the trial to prove the defendant is guilty.

Probable cause means that an officer has enough evidence to lead a reasonable person to believe that the items searched for are connected with criminal activity and will be found in the place to be searched. This level of information is more than reasonable suspicion.

Reasonable suspicion is a measurement of how much reliable information a police officer has. An officer must have this level of information to justify stopping individuals for questioning when the individuals reasonably believe they are not free to leave.

Warrant is a court order authorizing police action, as in a search warrant.

Introduction

Procedures
■ **Enter class and request** that a particular student (with whom you have discussed this before class) remove his or her wallet and bring it up to the front of the class. Indicate to the entire class that you are going to demonstrate something by inventorying the entire contents of the wallet in front of the class. (Alternatively, students could be ordered to remove their shoes and place them in the front of the room.)

The student should react negatively to the idea but submit to the demand. Before the wallet is inventoried (or the shoes are removed), stop and ask the students what they are feeling. The anger, resentment, etc. that some of them may be feeling is due to a perceived invasion of privacy. Identify that today's lesson is about privacy and the ability of the government to interfere with an individual's privacy.

■ **Draw a scale** on the board with privacy on one side and government enforcement of laws, including officer safety, on the other.

Tell students that the subject of search and seizure requires a balancing between the two.

The Fourth Amendment was designed to protect against certain British practices, specifically used by British officials, of

general warrants in Britain to enforce the acts of trade and writs of assistance used for searches for seditious publications in the colonies.

The common law of England did prohibit search warrants that did not describe in detail the places to be searched and the things or persons to be seized. There were two exceptions, however, authorized by Parliament, that prompted first Virginia, in its State Declaration of Rights, and then the U.S. federal government, to adopt a specific right against unreasonable searches and seizures.

The general search warrant, called a writ of assistance, gave royal officers the authority to search any house or ship, to break down doors, open trunks and boxes and seize goods. The other exception was the warrant for the search and seizure of seditious publications. This permitted royal officials to search all houses and shops where they suspected, upon some probable reason, that unlicensed publications were kept.

When the Fourth Amendment was adopted as part of the Bill of Rights in 1891, it prevented unreasonable searches and seizures committed by federal law enforcement. State government officials, including state, county, and local police, were not covered by the Fourth Amendment. It was not until 1949, in a case called *Wolf v. Colorado*, 338 U.S. 25 (1949), that the U.S. Supreme Court ruled that the Fourth Amendment protections (but without the exclusionary rule) applied to state government officials. The Fourth Amendment with its exclusionary rule was incorporated by another case in 1961, in *Mapp v. Ohio*, 367 U.S. 643 (1961).

■ **Ask students** what a "search" is.

Define it as a prying into hidden places for something that is concealed and does not include observing that which is open to view. Check for understanding by presenting these hypotheticals:

- Is it a search when a police officer notices marijuana growing in Tom's front yard? (No, since it was open to view.)
- Is it a search when a police officer listens to Mary's conversations by using an electronic device? (Yes, since the officer is prying into a hidden place.)

■ **Ask students** what a "seizure" is.

A seizure of property occurs when there is some meaningful interference with an individual's possessory interests in that property.

A seizure of the person occurs when law enforcement officers give "a show of official authority such that a reasonable person would have believed s/he was not free to leave." Check for understanding by presenting these hypotheticals:

- A police officer cuts down what she suspects is a marijuana plant growing in Tom's front yard to take it to the lab for testing. Is this a seizure? (Yes, even though it was not a search since it was open to view, it is a seizure since it is taking into possession Tom's property where the officer has no legal right to be.)
- Jane is arrested and taken to jail. (Yes, this is a seizure of her person.)
- Police catch up to a fleeing felon and drive alongside him for a short distance. (No, not a seizure.)

- An officer requests identification. (No, not seizure without more.)
- An officer turns on the flashing light. (Yes, seizure.)

■ **Pass out Handout 1-1**, and have students follow.

Explain that search and seizure law is governed by two Constitutions: the U.S. and Washington Constitutions. Have students in pairs underline the important words in the Fourth Amendment.

■ **Put the underlined sentence** on the board or overhead and explain that through court interpretations the Fourth Amendment bans unreasonable government searches and seizures of areas that fall within a legitimate expectation of privacy.

■ **Define each** of these phrases, giving examples:

- **Expectation of privacy** means what individuals consider private. These expectations vary from person to person. One individual may feel comfortable having someone else look through their wallet while another may not want anyone looking inside.
- **Legitimate** means what society is willing to protect. So a person may feel that the trash they set out on the street is private, but, according to the U.S. Supreme Court, society is not willing to protect that expectation. Even though the trash may have bills, medical papers, personal letters, the U.S. Supreme Court has said that the expectation of privacy in the trash put out in a public area for pick-up is not legitimate. Therefore the police may search through the trash which is in a public area without violating the federal constitution. (The Washington State Supreme Court decided in the case of *State v. Boland* that the state constitution protects a privacy interest in trash put out in a public area for pick-up.)
- The search must be conducted by the **government** and this includes anyone who is an agent of the government.
- Whether or not a search is **unreasonable** depends upon the facts of each case. As a general rule, searches with warrants are reasonable and searches without warrants are unreasonable unless they fall within one of the stated exceptions to the warrant requirement.

■ **Pass out Handout 1-2** and have students work in pairs to answer each case. Debrief the class by asking students how they ruled and why on each of the two cases.

Answers to Handout 1-2

A. In *McWatters v. Washington*, 63 Wash. App. 911, the Court ruled that the search was permissible. Under these facts, the paramedic is not an agent of the police, so this is a private search not covered by the Fourth Amendment.

B. In *Stokes v. State*, 548 So.2d 118 (1989), a state supreme court ruled that the search was constitutional since Mrs. Stokes had common authority over the room and that Phillip did not have a reasonable expectation of privacy in his room.

■ **Inform students** that the Washington Constitution also provides for protection from police searches in Article 1, Section 7. Have students read the State Constitutional protection of privacy in Handout 1-1 and underline the important words. Applying Article 1, Section 7, a judge will ask whether the State unreasonably intruded into the defendant's private affairs.

■ **Explain that** in many cases, this right of privacy in the State Constitution gives people in Washington greater protection from searches and seizures than the Fourth Amendment to the U.S. Constitution. This means that police are more limited in what they can search in Washington. For example, the police have to put forward more information to a judge to convince the judge that the officer should be able to search based on an informant's tip. As another example, under the Fourth Amendment police can find out the phone numbers you dialed on your telephone without a search warrant, but the state constitution is violated when police obtain this information without a search warrant or subpoena.

A series of cases since 1985 continue to recognize that the Washington Constitution provides greater protection of privacy than the Fourth Amendment.

Search Warrants

Procedures

■ **Ask students** who can issue search warrants in Washington.

Search warrants must be issued by a "magistrate," which includes judges from the supreme court, court of appeals, superior court and district court, court commissioners, as well as all municipal officers who have the power of district court judges.

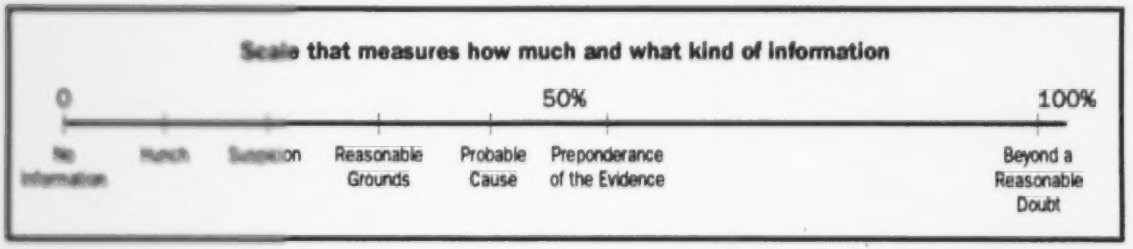
■ **Inform students** that Washington permits oral search warrants in which the person asking for the warrant makes a sworn statement over the telephone to the judge.

If satisfied that the sworn-to facts establish probable cause, the judge will issue an oral warrant. The judge must record these telephone calls.

■ **Tell students** that the Fourth Amendment requires that warrants issue "upon Probable Cause." Ask students what that means.

This means that magistrates considering whether or not to permit the search must have a sufficient amount of information before issuing the warrant. If the information is not enough to amount to probable cause, the magistrate must deny the request for a warrant.

■ **Draw this line graph** on the board to demonstrate probable cause.



■ **Explain each** entry on the chart.

- **No Information** means that the officer doesn't know anything about the location of evidence linked to a crime.
- **Hunch** means that the officer has a gut feeling that something is not right, but the officer cannot point to any specific facts; it is something like intuition.
- **Suspicion** means that the officer knows a minor fact, or has some larger fact that came from an unknown or unreliable source that suggests that evidence may be located somewhere. For instance, an officer stops a person on the street to ask a question and the person quickly puts a hand in a pocket. Or, the officer may find a piece of paper on the street which says that a particular person is selling drugs.
- **Reasonable Grounds** (also called Reasonable Belief and Reasonable Suspicion) means that the officer knows several minor facts or a larger fact, or a large fact from a source of unknown reliability that points to a particular person engaging in some criminal activity. For example, a teacher standing outside a girls' lavatory smells cigarette smoke coming from the lavatory. The only two girls in the lavatory then leave together. The teacher has reasonable grounds, but not probable cause, to believe the girls have cigarettes in their purse (a violation of a school rule).
- **Probable Cause** means that an officer has enough evidence to lead a reasonable person to believe that the items searched for are connected with criminal activity and will be found in the place to be searched. For example, an increase of 200 to 300 percent in power consumption within a building is not enough alone to establish probable cause to believe that a drug growing operation is underway inside. However, such an increase with other suspicious facts including an anonymous phone call claiming that people at a certain place are growing drugs is enough for probable cause and a search warrant.
- **Preponderance of the Evidence** is the amount of evidence needed to be successful when suing in a civil case. It means that evidence must be "more likely than not," more than 50% in order to win.
- **Beyond a Reasonable Doubt** is the highest amount of proof and is required to convict a person of a criminal charge.

■ **Describe the requirements** of a search warrant.

- **Constitution requires "Oath or Affirmation."** This requires that the person presenting the affidavit swear to the information in the affidavit.
- **Information considered**. Information establishing probable cause may not be stale. The facts must support reasonable probability that materials to be searched for were identified at or about the time the warrant was issued. For example, one small sale of marijuana does not support a warrant to search two weeks later.
- **Particular description of place to be searched**. The Constitution requires that the places to be searched be described with some detail. There are two purposes for requiring a particular

description: (1) limits the risk that search will be done in wrong place and (2) helps in determining whether probable cause is present.

- **Searches of persons**. When search warrants are issued to search individuals, there must be probable cause to believe that a specific individual has evidence on his/her person. Warrants are insufficient to authorize a search of any person found in a general vicinity.
- **Particular description of things to be seized**. The Constitution requires that there be a particular description of the things to be seized: (1) to prevent general exploratory searches; (2) to protect against seizure of objects on mistaken assumption that they fall within warrant; and (3) to ensure that probable cause is present.
- **Explain to students** that searches conducted with a warrant in Washington must be done within a certain time: within ten days for most warrants and three days for search warrants for controlled substances. However, execution of the warrants in Washington are not restricted to daytime hours.

■ **Explain the knock and announce law** in Washington. The Knock and Announce law applies to officers executing both arrest and search warrants. Unless there is an emergency, police are required to identify themselves as police and that they are there to execute a warrant before entering private premises. Also they must give notice before they pass through doors inside a house.

If the occupants refuse to admit them, the police have the right to forcibly enter and conduct the search. Ask students what they think the purposes of the law are: to reduce the possibility for violence, to prevent physical destruction of property, and to protect privacy.

■ **Explain that the officer** taking property under the warrant is required to give to the person who was searched a copy of the warrant and a receipt for the property taken. If no one is present for the search, the officer may post a copy of the warrant and receipt. The officer then makes an inventory of the property in the presence of another (may be a police officer) and reports the findings.

■ **Remind students** of the rule that searches with a warrant are presumed to be reasonable (and therefore legal), while searches without a warrant are presumed to be unreasonable (and therefore illegal) unless they fall within a specific exception to the search warrant requirement.

■ **Do the case study** in Handout 1-3. Have students work in small groups to decide whether or not to suppress the evidence.

Answers to Handout 1-3

In *Washington v. Garcia*, 824 P.2d 1220 (1992), the Washington Court of Appeals for Division III ruled that the search warrant was properly issued and that the evidence could be used against Mr. Garcia. The court cited Officer Mays having recognized the manager's description of the folded glossy papers as bindles, a distinctive form of packaging commonly used in the sale of cocaine. Taking this together with the other circumstances, i.e., the odor of diesel fuel and numerous phone calls

received by Mr. Garcia during all hours, gives rise to probable cause to believe cocaine was in the room.

Defense counsel argued that the odor of diesel fuel is not an indicator of the presence of cocaine, and therefore could not be a factor in determining probable cause. The court said that the defense has the burden to prove this and it failed to do so by not supplying the court with an expert.

Investigatory Stops

Procedures

■ **Ask students** what does it take to "seize" a person? Does every seizure of a person mean the person is under arrest?

A person is "seized" when law enforcement officers give a show of official authority so that a reasonable person would have believed he or she was not free to leave. Not every seizure amounts to an arrest. Some seizures amount to what is known as an "investigatory stop." The fourth amendment right to be free of unreasonable seizures applies to these situations where the police have stopped an individual and restrained the person's freedom to walk away. If the police do not have proper justification when they conduct an investigatory stop, they violate the Fourth Amendment.

Police do have a right to detain a person for questioning as part of an investigative stop when they have a well-founded suspicion, not amounting to probable cause to arrest, that criminal activity is afoot.

When police have a well-founded suspicion, they may stop a suspected person, identify themselves, and ask the person for identification and an explanation of their activities.

Not every encounter between police and an individual amounts to a seizure. In Washington, police have not seized an individual merely by approaching the person in a public place and asking questions as long as the individual need not answer and may simply walk away.

In deciding whether the police were correct in stopping an individual who has not consented to the stop, the courts will consider the purpose and length of the stop, the degree of intrusion upon the person's liberty, the nature of the crime under investigation and the probable dangerousness of the suspect.

■ **Have students apply** these principles to the roleplay in Handout 1-4.

Note to ESL teachers: An alternative exercise for Limited English Speakers is described following this set of procedures.

■ **Assign one student to each** of the these three roles: Police Officer Guyer, Tom, and Jerry. Have each of the three students read their role in preparation for the roleplay. A white paper (representing a drug packet) should be folded and placed in Jerry's pocket.

The remainder of the class should be divided into three groups:

- **Group 1** should serve as attorneys for the government (Officer Guyer's side). Each member of Group 1 should get the rules for investigatory stops and later make arguments based on the roleplay why Officer Guyer did not violate Jerry's constitutional rights and that the cocaine should be admitted into evidence.

- **Group 2** should be assigned to serve as attorneys for Jerry. Each member of Group 2 should be given a copy of the rules for investigatory stops and later make arguments based on the roleplay that their client's rights were violated by Officer Guyer and that the cocaine should be suppressed.
- **Group 3** should serve as judges who will observe the roleplay and develop questions for the attorneys and decide whether or not the officer's conduct was reasonable. If the judges determine that the evidence was seized legally, the cocaine can be used in the trial against Jerry. If they decide the evidence was seized illegally, the evidence cannot be used and, unless the police get additional evidence on Jerry, Jerry will probably go free.

■ **Have students enact** the roleplay. After the roleplay but before beginning any debriefing, have students identify what happened in the roleplay.

■ **Then have students work** in their small groups to develop their arguments or their questions. The roleplayers can join each of these groups—"Officer Guyer" to Group 1, "Jerry" to Group 2, and "Tom" to Group 3. In large classes, each group can be subdivided into smaller groups so that no more than five persons are working in each subgroup.

■ **Conduct several hearings** at the same time in which one student from Group 1 is matched with a student from Group 2 and Group 3. Tell judges not to announce their rulings in their small groups but to save their ruling for an announcement in the front of the entire class. (In the event of uneven class numbers, students can share roles by having two attorneys per side or two judges.)

■ **Inform students** that each side has five minutes to present its arguments and that judges are encouraged to interrupt and ask questions. Group 1 (the prosecutors for the State) go first and Group 2 members go second.

■ **After each side** has made its arguments, each judge should come to the front of the class and report his or her ruling and the strongest argument made in each hearing by the state's attorney and the defense attorney.

■ **Congratulate** and thank the roleplayers and the attorneys and judges.

■ **Inform the students** that this roleplay is based on the case of *State v. Richardson*, 825 P.2d 754 (1992). In this case the court ruled that the initial contact with Jerry was lawful but that when the officer had Jerry put his hands on the car and empty his pockets, the stop became a seizure.

Under these facts the seizure was unreasonable, and Jerry's conviction was reversed and the charges dismissed. Specifically the court ruled that:

- The initial contact with Jerry was lawful since it did not intrude upon Jerry's liberty or privacy. This applies rule 1.
- Jerry was "seized" at the point that Officer Guyer had Tom and Jerry empty their pockets and place their hands on the patrol car while he questioned them. Jerry and any reasonable person would

not have believed that they were free to leave.

- Officer Guyers' conduct was not reasonable. A person's presence in a high crime area does not, by itself, give rise to a reasonable suspicion to detain that person. Nor does an individual's mere proximity to others independently suspected of criminal activity justify an investigative stop. The suspicion must be individualized. Officer Guyer had a reasonable suspicion that Tom was engaged in criminal activity, but not that Jerry was. At the time of the seizure all that Officer Guyer knew was that Jerry was in a high crime area, late at night, walking near someone the officer suspected of "running drugs." He had not heard any conversation between the men and had not seen any suspicious activity between them.

  In the actual case, the officer claimed that Jerry made the statement that "Go right ahead. I don't use drugs. I will take any test to prove it." Jerry denied making that statement. The trial court had allowed the use of the drugs because it ruled that Jerry had consented to the search. The Court of Appeals did not agree that there was consent. The illegal seizure took place before the search.

- Since the investigative stop of Jerry was illegal, the search of his person was also illegal. The cocaine cannot be used as evidence against him. His conviction was vacated and the case dismissed.

■ **Have students apply this information** on investigatory stops in the Handout 1-5 and/or Handout 1-6. Handout 1-5 should be done in small groups, dividing the class into groups of up to five. Handout 1-6 should also be done in small groups. However, have students read through each of the two opinions and decide which of the two opinions they personally agree with. Group students in small groups based on their personal views.

Debrief both activities by getting arguments from each side until all the arguments are exhausted.

Answers to Handout 1-5

A. In *Washington v. Thierry*, 803 P.2d 844 (Wash. App. 1991), the Court of Appeals ruled that the police officers had a reasonable suspicion that criminal activity was afoot.

The Court ruled that the officers' initial stop of Thierry was valid. They, working a high crime area, observed behavior consistent with the profile of drive-by shootings. They were not required to ignore their observations. Circumstances that might appear harmless to the average person may appear incriminating to a police officer in light of past experience, and the officer may bring that experience to bear on a situation, as the officers did here. It is necessary only that the circumstances at the time of the stop be more consistent with criminal than innocent conduct.

Answer to Handout 1-6

In *Washington v. Barber*, 823 P.2d 1068 (1992), Opinion One is the opinion of the Washington Supreme Court.

■ **Ask students** to comment on the outcome of the Thierry case. Did they agree that officers should be allowed to consider

"profiles" in determining whether or not there is reasonable suspicion? Does allowing the profile to be considered result in more frequent stops of minority individuals?

■ **Explain that**, in 1990 in Washington, Harriett Walden and Janice Marie Bell founded "Mothers Against Police Harassment." This organization calls attention to police abuse of minority youth and has rallied support for reform. It works for a better understanding between police and the community, emphasizing the need for responsible behavior on the part of police as well as the youth.

Modifications for Limited-English Class

Procedures

■ **Tell students that** today's class will focus on the human right to fair treatment by the police.

■ **Ask students** under what circumstances in their home country can a police officer stop a person and ask questions in order to investigate a crime. Get students to describe what they know about when police can stop individuals and question them. As in America, not everyone will be familiar with the legal requirements imposed on police. As an extension activity, students might be asked to research this issue among members of their ethnic community.

■ **Tell students** that the United States Constitution and the Washington State Constitution define the human right to fair treatment by the police in Washington State.

Today they are going to learn the rules about police conduct in the United States and the rights of individuals to fair treatment. While they learn about these rules and rights, they should also realize that the police do not always follow the rules and sometimes the rights of individuals are violated.

■ **Pass out** Handout 1-7 and have students take turns reading aloud. Each student could read one sentence from the case study.

■ **Have students** as a group identify what happened in the case.

Answers to Handout 1-7

A. Students should identify that Van, a young Asian male, was stopped and searched by the police because the police thought he might be involved in selling drugs. The police thought that because they knew of Asian gangs selling drugs, Van was driving a new car and wearing black clothing generally worn by Asian gang members. The police searched his outer clothes and reached in to pull out some small rocks they thought might be drugs. They also searched the inside and trunk of his car. The police did not find drugs. The police let Van leave after telling him this is a "routine stop."

■ **Divide the class** into small groups and have them decide whether or not the officers acted fairly.

■ **Have students** give their opinions and discuss their reasons.

■ **Before providing students** with information on the law that applies, give them Handout 1-8. Follow the same procedure, having students read aloud and then describe what happened to Thuy.

Answer to Handout 1-8

A. Students should identify that Thuy, a young Asian male, was stopped and searched by the police because the police thought he might be involved in selling drugs. The police thought that because they knew of Asian gangs selling drugs, Thuy was driving a new car and wearing black clothing generally worn by Asian gang members. The police searched his outer clothes and reached in to pull out a gun. They also searched the inside and trunk of his car. The police find drugs. The police arrest Thuy.

■ **Have students** in small groups decide whether or not the officers acted fairly.

■ **Have students** give their opinions and discuss their reasons.

■ **Pass out** Handout 1-9 and review the police rules with students.

- A police officer has the right to come up to any person in a public place and ask that person questions as long as the individual does not have to answer and may simply walk away.
- A police officer does not have the right to stop a person driving a car unless the officer has enough information to reasonably believe that the individual has broken a law. The officer may stop a person for driving with a broken tail light or for other traffic violations.
- If the police officer has a "reasonable suspicion" that an individual is involved in criminal activity, the officer may stop that person and question the individual.
- If the officer has reason to believe that the person stopped is armed with a weapon and likely to be dangerous, the officer may pat down the person's outer clothes for weapons.
- Only if the officer feels something that could be a weapon or immediately identifiable contraband does the officer have the right to reach in the clothing and pull out that item.

■ **Have students return** to their small groups (or alternatively do as a large group) and apply the rules from Handout 1-9 to the case studies.

■ **In debriefing** students' answers, inform students that under the United States Constitution and the Washington State Constitution, the police acted illegally in both cases.

Answers to Handout 1-7

B. The police did not have sufficient information to reasonably believe that Van was engaged in criminal activity. The Constitution requires the police to have at least a "reasonable suspicion" that Van is involved in criminal activity. The facts that Van is an Asian male, driving a new car and wearing all black are not enough information to amount to a reasonable suspicion.

Therefore, the police had no right to stop Van in his car. All the searches that follow from the first illegal stop are also illegal.

Even if the officers had properly stopped Van (for example, if his tail light was broken), the officers had no reason to believe that Van had a weapon and was dangerous. Their patdown of his clothes was illegal. They had no right to reach into his pocket and take out what they thought were drugs. They had no right to search the inside or trunk of his car.

In the United States, there is no such thing as a "routine search" by police of persons in public unless it occurs in special places like airports or courtrooms. Van's right to privacy and his right to be free from unreasonable searches and seizures have been violated.

Answers to Handout 1-8

B. Again, the officers do not have a reasonable suspicion that Thuy is involved in criminal activity. Their stop of him was illegal and all the searches that occur after that stop are also illegal. If Thuy does not have a legal right to the gun, the police will not return the gun to him.

Because the searches were illegal, the government could not use in evidence against Thuy any of the items taken: the gun, the cocaine found under the car seat or in the trunk. Without other evidence, the government could not bring criminal charges against Thuy. Thuy would go free.

■ **Students may be surprised** at the outcome of the case, since it is obvious that Thuy is guilty of a crime. Tell students that the government balances the individual right to privacy against the police and society's right to effective law enforcement. In some cases the right to privacy will be protected even though it makes police work less efficient.

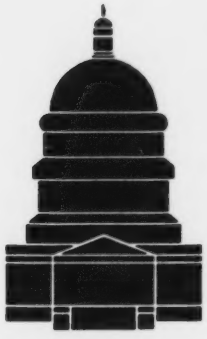
■ **Ask students** if they agree with the outcomes of both cases. Tell students that many native born Americans disagree with this rule because they believe it allows guilty persons to go free.

■ **The reasons that** the law uses this rule (called the "exclusionary rule") is to:

- Show police that they must respect constitutional rights.
- Preserve the honor of the court by not using evidence that was illegally obtained.

■ **Explain to students** that the police do not always follow the law. In some cases, persons whose rights have been violated can sue the police for a violation of their rights. This means that if the individual can prove the officer violated the individual's rights, the individual may recover money from the police. (Generally, the government that employs the police, and not the individual officer, pays this money.) Realistically, it is difficult to win such a case unless the rights' violation is very severe.

Search and Seizure Under U.S. and Washington Constitutions



United States Constitution, Fourth Amendment

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to seized.

A. Underline the important words above in the Constitution.

B. The Fourth Amendment bans:

(1) Unreasonable searches and seizures by the government
(2) of areas that fall within a legitimate
(3) expectation of privacy.

Washington State Constitution, Article 1, Section 7

No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

a. Underline the important words.

Knock and Announce Statute, RCW 10.31.040.

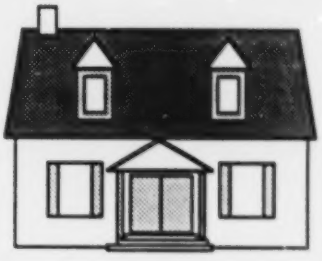
To make an arrest in criminal actions, the officer may break open any outer or inner door, or windows of a dwelling house or other building or any other enclosure, if, after notice of his office and purpose, he be refused admittance.

(This statute applies to arrests and searches.)

Search and Seizure Cases

Directions: Decide in each case whether or not the search is in violation of the U.S. Constitution.

A. Rodney McWatters was injured in a motorcycle accident. When the paramedic arrived, he found McWatters, conscious, lying face down on the street. To see how badly Mr. McWatters was hurt, the paramedic cut away his clothes and rolled him on his back. A pouch containing $11,000 was found on his stomach. The paramedic searched Mr. McWatters' clothing for valuables, in accordance with his training, to protect himself from accusations that he stole something from the injured man. In Mr. McWatters' pants, the paramedic found a knife, notebook and a small plastic container, later identified as containing heroin. The paramedic turned the money and drugs over the police officer at the scene.



B. Phillip Stokes is an adult who lived with his mother, Mrs. Stokes, who paid the rent. Mrs. Stokes kept her sewing machine in her son's room, and once in a while went into his room. Phillip kept the door locked most of the time. One day the police came to investigate a murder they think Phillip committed. They asked Mrs. Stokes if they might search Phillip's room and she agreed. They searched the room and found evidence that linked Phillip to the murder. Phillip claims the search violated his constitutional rights.

Search and Seizure Cases

Directions: Decide whether or not the search is legal.

A. Rodney McWatters was hurt in a motorcycle accident. McWatters was conscious when the medical worker arrived. McWatters was lying face down on the street. The medical worker cut away his clothes and rolled him on his back. He wanted to see how badly McWatters was hurt.

The medical worker found a pouch containing $11,000 on McWatters' stomach. The medical worker searched Mr. McWatters' clothing for valuables. This is the correct procedure. It prevents claims that the medical worker stole something from the injured man. A knife, notebook, and heroin were found in Mr. McWatters' pants. The paramedic gave the money and drugs to the police.

Did the medical worker do a legal search?

Search Warrant Case Study

On July 18, a police officer contacted the manager of a Motor Inn. The manager stated that Mr. Garcia was the tenant in room 20 and he had told her he did not want his room cleaned. The manager reported that when the owner had informed her that all rooms were to be checked daily, she entered room 20.

The manager told the police officer that the room smelled like diesel fuel. She observed a brown paper bag filled with folded papers in a drawer in the room. The Officer demonstrated a paper bindle fold for the manager. She identified the paper bindle fold as one she had seen and that the papers were glossy.

The manager told the officer that Mr. Garcia received numerous telephone calls at all hours and the same people were going to his room on a daily basis. She gave the police a list of license numbers of vehicles used by persons going to room 20. One included a vehicle registered to Jose Garcia. Tip sheets indicated that Jose Garcia's vehicle was involved in drug trafficking in this area.

The officer requested a search warrant, citing these facts, and swearing that:

> Based on his past experience in executing search warrants and schools he had attended it is known that, cocaine is not only made using diesel fuel, but that cocaine is quite often transported in fuel tanks that contain diesel fuel. Cocaine made with diesel fuel and/or transported in diesel fuel tanks retains some of the odor of diesel fuel. Cocaine is packaged in several types of ways for sale. One of the ways includes in paper bindle folds using glossy type paper. The glossy type paper is used to keep the cocaine from adhering to the paper. Also from past experience the officer has knowledge that motel rooms are quite often used for the distribution of controlled substances. The officer has knowledge that persons dealing from motel rooms want no person inside the room to change linen or do other things that can draw suspicion to themselves.

Based upon this affidavit, a warrant was issued to search room 20 of the Motor Inn. Cocaine was seized from the room and Mr. Garcia was charged with possession of cocaine. He moves to suppress the evidence because he

claims the information supplied in the affidavit does not establish probable cause to believe cocaine would be found on the premises. Specifically, he argues:

1. The manager had no experience by which she could relate what she observed in the motel room to the presence of cocaine.

2. Her observations do not establish probable cause to believe the room contained cocaine, and

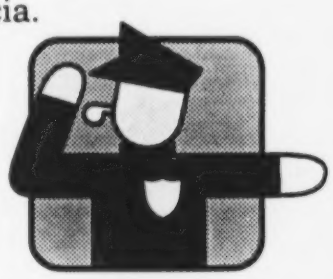
3. There was no showing of the reliability of the tip sheet identifying defendant's vehicle as one used in cocaine trafficking in the area.

A search warrant is properly issued if a reasonable, prudent person would understand from the facts in the affidavit that a crime has been committed, and evidence of the crime can be found at the place to be searched. Affidavits should be tested in a common sense, not hypertechnical, manner, as long as the basic requirements are met. Doubts should be resolved in favor of the validity of the warrant. Mere suspicion, however, that the illegal objects are within is not enough to justify a search warrant.

Question: Was the search warrant properly issued? Why or why not?

Search Warrant Case Study

On July 18, a police officer questioned the manager of a motel about one of its guests, Mr. Jose Garcia.



The manager stated the following to the officer. Mr. Garcia was the tenant in room 20. At check-in, Mr. Garcia told the manager that he did not want his room cleaned. However, because all rooms had to be checked daily, she had entered room 20. The room had smelled like diesel fuel. She had seen a bag filled with folded papers in a drawer in the room. The papers were glossy.

The officer showed a paper fold for the manager. She said that folded paper was the same as the one in the drawer.

The manager further told the officer that Mr. Garcia received many telephone calls at all hours. The same people were going to his room on a daily basis. She gave the police a list of license numbers of vehicles used by persons going to room 20. One included the vehicle registered to Jose Garcia. The police had a tip an unknown source that Jose Garcia's vehicle was involved in drug trafficking in this area.

The officer requested a search warrant. He swore that:

Based on his past experience and training, cocaine is made with diesel fuel. Cocaine is also quite often carried in fuel

tanks that contain diesel fuel. This makes cocaine smell like diesel fuel.

Cocaine is packaged in many ways. One way is in paper folds using glossy paper. The glossy paper keeps the cocaine from sticking to the paper.

The officer also knows that motel rooms are quite often used for the drug sales. Persons who are selling drugs do not want anyone to come inside the room for any reason.

A warrant was issued to search room 20 of the Motor Inn. Cocaine was seized from the room. Mr. Garcia was charged with possession of cocaine.

Mr. Garcia claims that the search of his room was illegal. He says that the sworn statement of the police officer did not show probable cause.

The Law: The search warrant is valid when the facts in the sworn statement show to a reasonable person that a crime has been committed and evidence of the crime can be found at the motel.

Sworn statements are tested in a common sense manner. Was the search warrant properly issued? Why or why not?

A Police Stop Roleplay

Setting: Late at night, Officer Guyer is patrolling an area in Yakima known for its high drug activity. On three occasions, over a period of 4 hours, he observes an unfamiliar male, later identified as Tom, engage in suspicious activity consistent with "running drugs." The individual would stand on a corner, then approach people in cars and talk with them. Whenever the officer or another patrol car approaches, Tom would walk away and disappear. On the third occasion, at 2:30 a.m., Tom sees the officer, turns around, walks in the opposite direction and disappears.

Twenty minutes later, Officer Guyer sees Tom walking with an unknown male later identified as Jerry. The officer pulls up next to the two men.

Roles: Police Officer Guyer
Tom
Jerry

Instructions for Officer Guyer:

You pull up in your patrol car next to Tom and Jerry who are walking together on the sidewalk at 2:30 a.m. in a high crime area.

You ask them if you could talk to them for a few minutes. You have them empty their pockets and place both the contents and their hands on the car. During the entire questioning, both men have their hands on the car. You should ask each man for identification, explaining the area is known for drug activity, and ask them if they live in the area. Tom will say yes and Jerry will tell the officer he lives in another area and had been in a bar and was now heading to his parents home. You then ask if either uses drugs or has any. They will both deny drug usage. You ask to search their pockets.

The officer finds a small white paper containing cocaine in Jerry's pocket.

Instructions for Tom:

You are walking on the street with Jerry when Officer Guyer pulls over next to you in the patrol car and stops you. The officer gets out and asks if he can speak with you for a few minutes. The officer asks you to empty your pockets and put the contents of your pockets and your hands on the police car.

You obey the officer's request to empty your pockets and put your hands on the car. Throughout the entire questioning, you keep your hands on the police car. You bring out your driver's license when asked for identification. You tell police that you live in the area. You deny using or having drugs.

The officer finds nothing in your pockets.

Instructions for Jerry:

You are walking on the street with Tom when Officer Guyer pulls over next to you in the patrol car and stops you. The officer gets out and asks if he can speak with you for a few minutes. The officer asks you to empty your pockets and put the contents of your pockets and your hands on the police car.

You respond to the officer's request to empty your pockets and put your hands on the car. Throughout the entire questioning, your hands are on the police car. You bring out your driver's license when asked for identification. You tell the officer you live in another area of town and had been in a bar and are now heading to your parents' home. You deny using or having any drugs. When asked by the officer if the officer can search your pockets, you say "Go right ahead. I don't use drugs. I will take any test to prove it."

The officer finds cocaine in your pockets.

Rules for Police Stops of Individuals

- Police have the right to approach any person in a public place and ask that person questions as long as the individual does not have to answer and may simply walk away.
- Police have "seized" a person when, in view of all the circumstances surrounding the incident, a reasonable person would have believed that s/he was not free to leave the presence of the officer.
- Police may only seize a person when they can point to specific and articulable facts that give the police a reasonable suspicion that criminal activity is going on.
- The facts that give rise to a reasonable suspicion must apply to the individual who is seized.
- Evidence that is obtained as a result of an illegal seizure may not be used in court to find the person guilty.

Assignment for Group 1. *Attorneys for the state should review the rules and then provide arguments to support each of these statements. Refer to a rule when developing arguments to support each statement.*

a. The officer's first contact with Jerry was lawful.

b. Jerry was "seized" when the officer ordered Jerry to place his hands on the car and empty his pockets.

c. The officer had a reasonable suspicion that criminal activity was going on based on the circumstances.

d. The discovery of the cocaine was lawful and can be used in court to prove Jerry is guilty.

Assignment for Group 2. *Attorneys for Jerry should review the rules and then provide arguments to support each of these statements. Refer to a rule when developing arguments to support each statement.*

a. The officer's first contact with Jerry was not lawful.

b. Jerry was "seized" when the officer ordered Jerry to place his hands on the car and empty his pockets.

c. At the time that the officer seized Jerry, he did not have a reasonable suspicion that criminal activity was going on based on the circumstances.

d. The discovery of the cocaine was not lawful and cannot be used in court to prove Jerry is guilty.

Assignment for Group 3. *Judges should review the rules and then develop questions for the attorneys for the state and for Jerry. The judges should listen to the arguments made by the state's attorney and the defense counsel, ask questions, and rule on the following questions. Judges should not tell attorneys their ruling until they are called to the front of the room. In giving their ruling, judges should tell what argument was the strongest for the state's attorney and for the defense attorney.*

a. Was the officer's first contact with Jerry lawful? Why or why not?

Judge's ruling: _____

b. At what point in time was Jerry was "seized?"

Judge's ruling: _____

c. Did the officer have a reasonable suspicion that Jerry was engaged in criminal activity at the time that the officer seized him? Why or why not?

Judge's ruling: _____

d. Was the discovery of the cocaine lawful and can it be used in court against Jerry? Give your reasons.

Judge's ruling: _____

What was the strongest argument made by the state's attorney?

_____

_____

What was the strongest argument made by the defense attorney?

_____

_____

Police Stop Using Profiles: Case Study

Two Tacoma police officers, working off-duty as security officers for Pierce Transit, observed Marcus. He was driving slowly with another teen passenger named Johnson past a transit stop in downtown Tacoma. It is about 3 p.m. one wintry afternoon. This was a high crime area with a high amount of gang activity, drug traffic, and violence. Despite the 40-degree weather, the windows were rolled down and the radio was playing very loudly. The two individuals were slouched down in the front seat of the car as they drove into a parking lot and drove around it even though there were many empty slots.

This fit the profile of drive-by shootings, so the officers approached the car. Marcus immediately turned down his radio and officers saw a two-foot-long wooden bat on the floor and noticed that Johnson was making furtive hand motions. Concerned for their safety, the officers ordered the two to bring their hands into view.

The officers then saw a cocked semiautomatic pistol between the armrests.

Question: Marcus claims that the initial stop made by the officers was invalid. The officers claim they had a reasonable suspicion to stop Johnson and Marcus. How would you rule and why?

Investigatory Stop Case Study Using Profiles

Two Tacoma police officers saw two teenagers in a car. The driver's name was Marcus. They were driving slowly past a transit stop in downtown Tacoma. There is a high amount of gang activity, drug traffic and violence in this area.

It was 3 p.m. one wintry afternoon. The temperature was 40 degrees. The car windows were rolled down. The radio was playing very loudly. The two individuals were slouched down in the front seat of the car. They drove into a parking lot and drove around it. They did not park the car even though there were many empty slots.

This fit the profile of drive-by shootings. The officers approached the car. Marcus immediately turned down his radio. The officers saw a two-foot-long wooden bat on the floor. They noticed that the passenger was making furtive hand motions. The officers got concerned for their safety, so they ordered the two to bring their hands into view.

The officers then saw a cocked semiautomatic pistol between the armrests.

Question: Marcus claims that the initial stop made by the officers was invalid. The officers claim they had a reasonable suspicion to stop Marcus. How would you rule and why?

Police Stop of Blacks in a Mainly White Neighborhood: Unmarked Opinion Case Study

A black police officer observed three young black men walking at 8 p.m. in Bellevue, in a mainly white area. One of them was carrying a bundle wrapped in a multi-colored blanket, another a brown paper bag and the third (the defendant Darron Barber) a duffel bag. The bags appeared to be filled with objects of some kind. After the officer drove past, he continued to observe the three through his rear view mirror. The three continued to glance at him and at each other. Through his mirror, the officer observed the male carrying the blanketed bundle heave the bundle into some brush just off the shoulder of the roadway. When thrown, the contents appeared to be of substantial weight, as the bundle did not fall very far despite the effort made.

The officer made a U-turn, drove back, stopped and began questioning them. He patted each down for weapons and found none. He then advised each of his Miranda warnings. The officer did not believe the three were under arrest at that time.

The two men put the duffel bag and brown paper bag on the ground. The paper bag was open and the officer observed two telephones and two cartons of Kool cigarettes. Mr. Barber carrying the duffel bag stated he did not want to answer any questions and made movements as if he was going to leave the scene. Officer Hershey then handcuffed the defendant to keep him at the scene.

The man with the paper bag indicated that he was assisting his friend move. Separately questioned, the male who threw the bundle gave a different version of events. He also denied having thrown anything in the bushes.

The officer patted down the duffel bag for weapons and recognized the contents as electronic equipment. Other officers arrived and one retrieved a videocassette recorder that had been thrown into the brush. Another officer with a tracking dog tracked to an apartment where the officer saw the screen for a sliding glass door in the bushes. The resident of the apartment reported a recent burglary with a Hitachi VCR, telephones, and a multi-colored afghan being taken. After confirming that the VCR found in the brush was the same make, the officers arrested the three men. This took 15 minutes from the initial stop to the arrest.

Opinion One

The officer's initial stop of the three males was not based on a well-founded suspicion of criminal activity based upon specific and articulable facts. Instead, the officer made the investigative stop of the three men solely because there were blacks in a predominantly white neighborhood. Except for the race of the defendants, the officer would not have slowed down to look at them twice. The fact that the officer is black does not make it more acceptable nor does the fact that the officer's hunch that they had violated the law turned out to be correct.

The stop was thus illegal and all the evidence gathered as a result of this illegal stop must be suppressed.

Opinion Two

The officer's initial stop of the three males was based on a well-founded suspicion of criminal activity based upon specific and articulable facts. The officer stopped them because one of the three was carrying a large blanket-covered bundle; as the officer drove past, he continued observing them and they continued to glance at him and at each other. The officer saw the one carrying the blanketed bundle heave the bundle into the brush. Tthe bundle appeared to be of substantial weight. The acts of the person throwing the bundle constituted at least littering; to this police officer of some ten years' experience, when a person is carrying a bundle under a blanket on a street at night, the items are usually the fruits of a recent burglary. Finally, the men were walking in the street in violation of the law.

The officer's detention of the three men was reasonably related in scope to the circumstances which justified interfering with the men in the first place. The purpose of the stop was related to the men's subsequent detention. The amount of intrusion upon the men in the course of the detention was reasonable, and the length of the men's detention was reasonable.

Opening and viewing the contents of the duffel bag was lawful. When the officer originally patted down the duffel bag for weapons, the officer inadvertently discovered that the bag contained electronic equipment. After reviewing the radio report from the officer with the tracking dog what items had been burglarized, the officer had every reason to believe the duffel bag contained contraband from the burglary. The items taken were lawfully obtained and can be used in evidence.

Police Stop of Blacks in a Mainly White Neighborhood: Unmarked Opinion Case Study

A black police officer saw three young black men walking at 8 p.m. in Bellevue, a mainly white area. One of them was carrying a bundle wrapped in a multi-colored blanket. Another was carrying a brown paper bag. The third, Darron Barber, carried a duffel bag. The bags appeared to be filled with objects of some kind.

After the officer drove past, he continued to observe the three through his rear view mirror. The three continued to glance at him and at each other. Through his mirror, the officer observed the male carrying the blanketed bundle throw the bundle off the shoulder of the roadway. When thrown, the contents seemed to be very heavy because they did not get thrown far.

The officer made a U-turn, drove back, stopped and began questioning them. He patted each down for weapons and found none. He then advised each of his Miranda warnings. The officer did not believe the three were under arrest at that time.

The two men put the duffel bag and brown paper bag on the ground. The paper bag was open and the officer observed two telephones and two cartons of Kool cigarettes. Mr. Barber stated he did not want to answer any questions and made movements as if he was going to leave the scene. Officer Hershey then handcuffed the defendant to keep him at the scene.

The police officer separated the men and asked them questions. The young men gave different answers about what they were doing. Mr. Barber also denied having thrown anything in the bushes.

The officer patted down the duffel bag for weapons and recognized the contents as electronic equipment. Other officers arrived and one retrieved a videocassette recorder that had been thrown in the brush. Another officer with the tracking dog tracked to an apartment. The officer discovered a recent burglary had been committed. A Hitachi VCR, telephones, and multi-colored afghan had been stolen. After confirming that the VCR found in the brush was the same make, the officers arrested the three men. This took 15 minutes from the initial stop to the arrest.

Opinion One

The officer's initial stop of the three males was not based on a well-founded suspicion of criminal activity based upon specific facts. Instead, the officer made the stop of the three men solely because there were blacks in a predominantly white neighborhood. Except for the race of the defendants, the officer would not have slowed down to look at them twice. The fact that the officer is black does not make it more acceptable. It does not make it acceptable either that the officer's hunch that they had violated the law turned out to be correct.

The stop was thus illegal and all the evidence gathered as a result of this illegal stop cannot be used in a criminal prosecution.

Opinion Two

The officer's initial stop of the three males was based on a well-founded suspicion of criminal activity based upon specific facts. The officer stopped them because one of the three was carrying a large blanket-covered bundle.

As the officer drove past, he continued observing them and they continued to glance at him and at each other. The officer saw the one carrying the blanketed bundle throw what appeared to be a very heavy bundle into the brush. This amounts at least to littering.

With ten years' experience, the police recognized that when a person carries a bundle under a blanket on a street at night, the items are usually from a recent burglary.

The men were walking in the street in violation of the law.

The officer's detention of the three men was reasonably related to the stop. The purpose of the stop was related to the men's subsequent detention. The amount of intrusion upon the men in the course of the detention was reasonable, and the length of the men's detention was reasonable.

Opening and viewing the contents of the duffel bag was lawful. When the officer originally patted down the duffel bag for weapons, the officer inadvertently discovered that the bag contained electronic equipment. After reviewing the radio report from the officer with the tracking dog what items had been burglarized, the officer had every reason to believe the duffel bag contained contraband from the burglary. The stop and the search are legal.

The Individual Is Not Guilty: Case Study 1

Police have reports that Asian gang members are selling drugs. Asian gang members generally wear all black clothing.

Van is 20 years old. Van does not speak much English. One afternoon, Van is driving his uncle's new car. Van is wearing all black clothing.

Two police officers in a police car stop Van. They think he might be a gang member who sells drugs. They think this because he is a young Asian male, he is driving a new car and he is wearing all black.

The police order Van out of the car and tell him to put his hands on top of the car. One police officer searches Van's clothing by patting Van with his hands. The officer feels something hard that could be crack cocaine. The officer reaches in and pulls out some small rocks from Van's pocket. They are not drugs.

Another officer looks into the car and under the seats for drugs and weapons. The officers tell Van to open the trunk of the car so they can see if there are drugs in the car.

Van opens the trunk and shows the police that the trunk is empty.

The police tell Van that this is a routine stop and that he may now leave.

A. What happened in the case?

B. Did the police act fairly? Why or why not?

The Individual Is Guilty: Case Study 2

On the same day that the police stopped Van, they also stop Thuy.

Thuy is also 20 years old and does not speak much English. However, Thuy is an Asian gang member. Thuy is driving a new car that he bought with drug money. Thuy is wearing all black clothing. He is a member of a gang.

Two police officers in a police car stop Thuy because they think that he might be a gang member who sells drugs. They think this because he is a young Asian male, he is driving a new car and he is wearing all black.

The police order Thuy to get out of the car and to put his hands on top of the car. One police officer pats down Thuy's clothing to feel for a weapon and finds a gun in Thuy's pants.

The other officer looks into the car and under the seats for drugs and weapons and finds a small package of crack

cocaine under the seat. The officers tell Thuy to open the trunk of the car so they can see if there are more drugs in the car. Thuy opens the trunk. The trunk has more cocaine.

The police tell Thuy that he is under arrest and take him to the jail.

A. What happened in the case?

B. Did the police act fairly? Why or why not?

Rules for Police

A. A police officer has the right to come up to any person in a public place and ask that person questions as long as the individual does not have to answer and may simply walk away.

B. A police officer does not have the right to stop a person driving a car unless the officer has enough information to reasonably believe that the individual has broken a law.

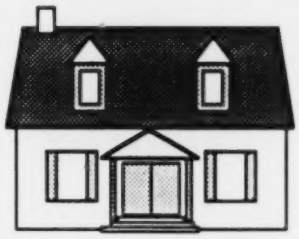
   The officer may stop a person for driving with a broken tail light or other traffic violations.

C. If the police officer has a "reasonable suspicion" that an individual is involved in criminal activity, the officer may stop that person and question the individual.

D. If the officer has reason to believe that the person has a weapon and is dangerous, the officer may pat down the person's outer clothes for weapons.

E. Only if the officer feels something that could be a weaponor immediately identifiable contraband does the officer have the right to reach in the clothing and pull out that item.

B. Phillip Stokes is an adult who lived with his mother, Mrs. Stokes. Mrs. Stokes paid the rent. Mrs. Stokes kept her sewing machine in her son's room. Once in a while she went into his room. Phillip kept the door locked most of the time.



One day the police came to investigate a murder they thought Phillip committed. They asked Mrs. Stokes if they might search Phillip's room. She agreed. They searched the room. They found evidence that linked Phillip to the murder.

Did the police do a legal search of Phillip's room?

Writing a Short Play With Five Scenes

Sequence
This Language Arts unit can be used after the students have completed the Social Studies unit on the search and seizure law.

Objectives
- Students will develop a plot for a short play.
- Students will develop characters with a specific point of view.
- Students will become aware of what is realistic dialogue for different characters.
- Students will write dialogue for a short play.
- Students will practice revising dialogue.
- Students will review the elements of a good conclusion.
- Students will publish or perform a play that they have written.

Materials
- Handout 1-10: Group Work — Day 1
- Handout 1-11: Sample Basic Plot Outline
- Handout 1-12: Group Work — Day 2
- Handout 1-13: Sample Character Sketch
- Handout 1-14: Group Work — Day 3
- Handout 1-15: Sample Scenes
- Handout 1-16: Writing Realistic Dialogue
- Handout 1-17: Group Work — Day 4
- Handout 1-18: Group Work — Day 5

  If groups are having difficulty staying on task, develop more group work handouts that outline each day's task and a recommended timetable.
- (Optional) Photocopies of student-written dialogue

Time Estimate
Approximately 10 class periods. Directions for a shorter, three-day version appear at the end of the lesson and before the handouts.

Use of Outside Resource Persons
A practicing attorney who is familiar with search and seizure law could facilitate the discussion of whether the searches depicted in the students' plays are lawful.

Vocabulary
See the vocabulary section in the Social Studies unit on this issue.

Procedures
■ **Day 1**: Begin by having the class brainstorm possible student items that a school

authority might want to search: lockers, trunks of cars in the school parking lot, locked band instrument cases, purses, coat pockets, etc. The class should then brainstorm possible items that an authority figure might want to search for: drugs, alcohol, firearms, stolen property, etc.

■ **Students should then** break into writing groups of four (or five). (See the Introduction for more information on how to use small groups.) Tell each group that their task will be to write a short play that involves a search or seizure scene. As a first step toward writing their play, each group should select both a group leader and a group recorder. (You may want to assign these roles.) The leader's job is to keep the group on task; the recorder's job is to keep a written record of what the group does. Distribute Handout 1-10, which outlines each group's task.

> **Note to teacher**: Teachers of limited-English speakers should refer to the modification lesson that appears at the end of these procedures.

■ **The groups should then** discuss what they think would make an interesting climatic scene to a play involving search or seizure. The groups can use the brainstorming work done at first, or they can come up with a new idea. By the end of this first class period, the group should have decided on what the basic plot leading up to the climactic scene for their play will be like, and the group's recorder should have made a record of their decision. Handout 1-11 is an example that you can distribute to give the groups an idea of what kind of basic plot outline they should come up with. If the groups finish with time to spare, ask some of the groups to read their basic plot outlines to the class.

■ **Day 2**: Reconvene the groups and tell them that today's task is to decide on the four or more characters in their play. Each character should be "fleshed out," that is, described physically, described in terms of personality, and described in terms of motivation. Ideally each should have a "history" or some background. The group leader should keep the group on task. The recorder should write out what the group decides about their characters. Handout 1-12 outlines how each group's task should be distributed. Handout 1-13 can be distributed to the groups to give them an idea how to flesh out their characters.

■ **Remind the groups** that they have four characters to create in this one class period, so they must stay on task and divide the available time among the characters. The teacher can float among the groups and serve as a "time reminder," announcing when one-quarter of the class time is over that the groups should have finished with character #1, announcing when half of the class is over that the groups should have finished with character #2, and so on. If the groups finish with time to spare, ask some of the groups to read one or more character sketches to the class.

■ **Day 3**: Reconvene the same groups. Tell them that today's task is to bring all four of their main characters to the point of the fifth, climactic scene. To do this, they need to create four scenes that build up to the climactic scene. Distribute Handout 1-14, which outlines the groups' tasks for

today. Handout 1-15 can be distributed to give students an idea of what kind of scenes they should create.

Once again, the group leader keeps the group on task, the recorder records the group's decisions, and the teacher floats from group to group and reminds the groups of how much time they have left to complete the day's task.

■ **Days 4 and 5**: Before reconvening the groups, tell the class that their task for the next two days is to write the dialogue for their short plays. Remind students that the key to writing dialogue is making it sound like something a person would really say. Pass out and discuss Handout 1-16.

■ **Remind students** that another difficulty all writers face in writing plays is how to get across background information without making the dialogue sound unrealistic. Yet another challenge is to figure out how to let the audience know what a character is thinking without overdoing artificial devices like having the character talk to himself or herself.

Discuss as a class how various groups may use dialogue to get across background information or let the audience know what a character is thinking. Ask if anyone has noticed how writers solve these problems in plays, movies, or television shows. Students may be able to give some specific examples. Some standard devices include the following:

- Characters can show by their body language and facial expressions how they feel about something. Such directions should be written into the play. Using the blackboard, demonstrate how to write such directions into a script. For example:

  George: (raising his voice) "Whadda ya mean your gonna flunk me? You can't do that!"

  Mr. Jennings: (shrugs shoulders as though unimpressed by George's anger) "The rules are the same for everyone. If you cheat, you flunk." (points a finger at George) "It's that simple."

- One character can remind another of some background information. For example, Diane might remind George that he has been unusually uptight lately and that she knows that he is worried about his dad's job, etc.

- A narrator can give background information.

■ **Reconvene the groups**. Tell the groups that they now need to divide up the work of writing the dialogue for their play. Working individually, each member of the group should write a draft of the dialogue for one of the four scenes. The groups should decide on who is doing what before they break to write. If a member of the group runs into difficulty writing the dialogue of his or her assigned scene, allow that student to confer briefly with another member of his or her group. Distribute Handout 1-17.

■ **Once the drafts are complete**, the groups should meet and read the drafts aloud, making suggestions about how to change the dialogue to make it more realistic. The groups should also make sure that dialogue contains any background information an audience might need and that directions about body language and facial expressions are written into the play. The

writer of the dialogue for that scene should incorporate the suggestions and then make a copy for each group member of the revised draft. Handout 1-18, which outlines these tasks, should be passed out to the groups.

■ **(If time and logistics permit**, do this step at the end of Day 5. Because of the photocopying, though, this step may need to be moved to Day 6 or may need to be deleted.) Using the copies, each group member should then "take a part" and read through the four scenes with expression. Based on this reading, the members can make more suggestions about revisions.

■ **Days 6 and 7**: Remind students that endings are challenging to write and that they want a fifth scene with a "satisfying" conclusion. Discuss as a class what kinds of things a writer needs for an ending to be satisfying. (Talk about "happy endings," tying up loose threads, O'Henry or surprise endings, etc.)

■ **Reconvene the groups**. Each group should then discuss in detail how their last scene should work. Group members may give suggestions for specific lines.

■ **One or possibly two** of the group members should prepare a draft of the dialogue for the final scene for the next day. If possible, make copies for all group members.

■ **When the group returns** the next day, the members should meet and read through the draft of the final scene. Revision suggestions should then be made and incorporated. If time permits, the group should then read the entire play, again taking parts, and reading with expression. Additional revision suggestions may be made and incorporated at this point. Group members may decide on a title or leave the play untitled.

■ **A group member** (other than the recorder and other than the drafter(s) of the final scene) should then make a final "published" copy of the play to turn in. Published copies of each play should be given in advance to the attorney who will help facilitate the discussion of the legality of the searches.

■ **Each group should decide** how it wishes to share its work with the class. Although groups should be discouraged from simply giving classmates copies to read, this is one option. Other options include but are not limited to the following: performing the play Reader's Theater style; performing the play by acting it out; and videotaping themselves performing the play and showing it to the class.

■ **Days 8, 9 and 10**: One by one, each group should present its play to the whole class. After each play is presented, the group and teacher should discuss with the class whether the search and seizure in each play was lawful or unlawful and why. Ideally, the discussion would include an attorney who practices in this area of the law. (In many instances, the answer may be that we don't know because the situation falls into a "gray area" of the law.)

Note to Teacher for Discussions After Plays Are Performed

Washington State has a statute, R.C.W. 28a.600.220, that governs when school officials may search students, including their lockers. The law specifically states that students have no right or expectation of privacy in the use of any locker assigned by the school.

An administrator or a designee may search the student, the student's possessions, and the student's locker when he or she has reasonable grounds to suspect that evidence will be found of the student's violation of a law or school rules.

Strip and body cavity searches by school officials are not permitted.

A search that is begun with reasonable grounds may become improper if the scope of the search is unreasonable. The scope of the search is proper if the search is conducted as follows:

1. The methods used are reasonably related to the objectives of the search.
2. The search is not excessively intrusive in light of the age and sex of the student and the nature of the suspected infraction.

The statute further provides that administrators or their designees may search all student lockers at any time without prior notice and without reasonable grounds that any particular student has violated the law or school rules.

If locked possessions (for example, briefcases, band instrument cases) are found within the locker, the administrator must have reasonable grounds to believe that some evidence of the violation of a school rule or law will be found in order to open the locked item.

You may want to discuss why students in school have less privacy rights than people in the general public. Ask why the same search (identical facts) in a public school setting that is unlawful/impermissible is often lawful/permissible in a private school setting. Have students return to the intent of the law for search and seizure. What were the drafters of the Fourth Amendment concerned about? Why is a public school more like state government than a private school?

Modifications for Limited-English Students

When the class breaks into writing groups on Day 1 of the procedures, consider putting students with the same native language into the same group. (Although in most ESL situations this way of grouping students will work out imperfectly at best, it will be helpful if at least two students in each group share the same native language.)

As students are developing their basic plot outline on Day 1, encourage students to consider the possibility of part of the plot including the fact that another language is spoken at some point in the play. One interesting plot twist might include having some of the characters understand the second language while other characters don't.

If students have decided to use some lines from another language as part of their play, encourage them to develop one or more characters whose descriptions include the ability to speak this language.

When students are dividing up writing the dialogue on Days 4 and 5, have the group members who speak the second language write the dialogue in that language.

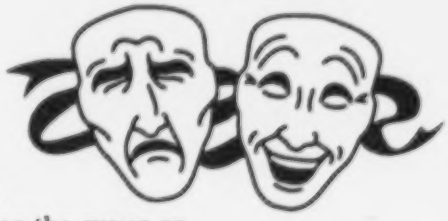
Modification for Shorter Version of the Lesson

- Change the assignments so that the play is a two or three scene play.
- The number of characters in the play can also be reduced to two or three.
- Have students work in groups of three or in pairs.

A three-day version of the unit would use the following abbreviated version of the procedures:

- **Day 1**: Brainstorm possible search and seizure incidents; break into groups to create the basic plot outline and develop characters.
- **Day 2**: As a class, discuss challenges of writing dialogue and work through Handout 1-16. Then assign group members to write dialogue for each scene, including the final scene.
- **Day 3**: Group performs its play. After each play, class discusses whether the search and seizure in each play was lawful.

Group Work — Day One



1. (3 minutes) Select a group leader and a group recorder. The leader's job is to keep the group on task. The leader should make sure everyone participates and that no one person dominates the group. The recorder's job is to keep a written record of what the group does so that the group can report back to the teacher.
2. (10 minutes) As a group, discuss what you think would make an interesting search or seizure incident in a high school. You can use the brainstorming done by the class or come up with your own idea. The recorder should record your idea.
3. (15 minutes) As a group, figure out a basic plot outline leading up to the search or seizure climax. Create a plot that has 4 or 5 characters in it. The recorder should record your ideas. Handout 1-11 is an example of the kind of basic plot outline you should create.

Sample Basic Plot Outline

Example: A teacher who has been threatened by a student named George tells the principal that he has been told that George has a gun in his locker. The principal and teacher confront George and his girlfriend Diane in front of George's locker. Despite George's protests, the principal opens the locker and finds a starter's pistol, which was stolen from a track meet the previous weekend.

Group Work — Day Two

Use the same leader and recorder that your group selected on Day 1.

1. (5 minutes) Decide on the 4 or 5 characters in your group's play. Give each one a name.
2. (10 minutes per character) Starting with the most important character in your play, flesh out each character, one at a time.

   Be sure to describe their physical appearance:

   Their personality:

   Their background or "history":

   What motivates them:

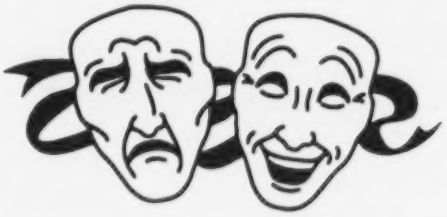
   Their relationship to the other characters:

The recorder should write out what the group decides about their characters.

Handout 1-13 can give you an idea how to flesh out a character.

Be sure that your group manages its time so that you can complete all your character sketches today.

Sample Character

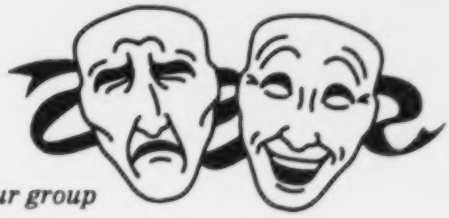


Example:

Character—George Hughes

George is a very good-looking, popular student who has always had average grades. Lately he has had a number of problems: his father lost his job, the family is strained financially, and as a result his parents' marriage looks like it is breaking up. George usually does not have problems with teachers at school, but his history teacher, Mr. Jennings, thought he was cheating on a test, so Jennings gave him a zero for the test and has said that he will probably fail him in history. George told Jennings that if he failed him in history "he [Jennings] would regret it."

Group Work — Day Three



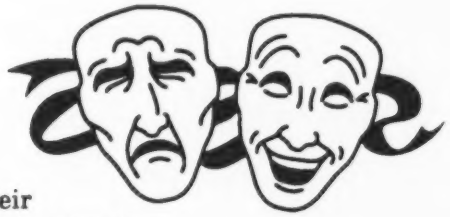
Use the same leader and recorder that your group selected on Day 1.

Your play will have five scenes. Scene 5, the climax, will be the search or seizure incident. Your task today is to create the four scenes that are the build up to the fifth scene. Be sure that you work in all your characters. Handout 1-1 gives you an example of the kind of scenes you should create.

Be sure to manage your time so that you get all four scenes written and recorded by your group recorder today.

If you have extra time, begin working on the fifth, or climactic scene.

Sample Scenes



Example:

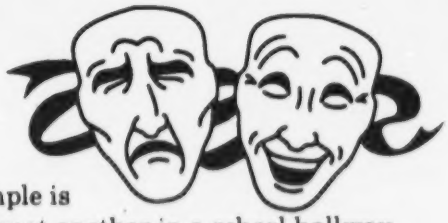
Scene 1: George and Jennings have their "cheating confrontation" in which Jennings threatens George about failing the course and George says he'll regret it if he does. After class Jennings finds an anonymous note left on his desk that says "Just thought you should know, I've seen a gun in George's locker."

Scene 2: Diane, who is on the track team, decides to "borrow" the coach's starter pistol. She plans to use it as part of a practical joke on another friend and then secretly return it.

Scene 3: Diane tells George about the practical joke and then asks him to keep the starter's pistol in his locker. When he asks where she got it, she says the coach lent it to her.

Scene 4: Mr. Jennings meets with the principal in the principal's office. He begins by telling the principal how moody and depressed George has been lately and that he fears drug use. He tells the principal about the alleged cheating incident and about how George threatened him. He shows him the anonymous note and together the two decide to "search" George's locker.

Writing Realistic Dialogue



Look at the 4 examples below. Each example is one possible way that one person might greet another in a school hallway.

Example 1: "Good morning, Tim."

Example 2: "Hi!"

Example 3: "Yo, dude, what's happenin'?"

Example 4: "Hey, Tim, what's up?"

Example 5: "Hello, Tim, nice to see you."

Which ones sounds like something a principal might say?

Which one sounds like something a principal might say to a student?

Which one sounds like something a principal might say to a parent?

Which one sounds like something a friendly girl might say to a boy she likes?

Which one sounds like something a guy might say to another guy who is a good friend?

Which one sounds like something a guy who is into heavy metal music might say to a friend in his band?

What are other ways one person might greet another in a school hallway?

Group Work — Day Four

1. (5 minutes.) Review the four scenes that lead up to the fifth and climactic scene of your play. Divide up the work of writing the dialogue for the first four scenes by having each group member responsible for one scene. (If there are five people in your group, two can pair up to write one scene.)

2. (Remainder of class.) Each group member writes up the dialogue for his or her assigned scene. If you run into difficulty with your dialogue, you can confer *briefly* with another member of your group. Be sure that the dialogue for your scene is ready for the next class.

Group Work — Day Five

1. Take turns reading the dialogue you wrote for your scene. Scene 1 should be read first, then 2, and so on.

After each scene is read, do the following:

2. Discuss whether the dialogue is realistic. How could it be improved so that it sounds more like how people really talk?

3. Will the audience know what is going on, or does the dialogue need to include some background information? If so, how can it be worked in so that it doesn't sound forced or artificial?

4. Does the dialogue contain directions for body language and facial expressions?

Be sure to manage your time so that all four scenes are done in this class period.

5. The author of the dialogue for each scene should then revise his or her scene using the group's suggestions.

6. Make a copy for each group member of the revised dialogue for each scene.

7. Using the copies, each group member should take a part in the play and read through the four scenes with expression. Based on this reading, the members can make more suggestions about revisions.

Word Search

Sequence
The word search for Criminal Law can be done at any time in the unit after the vocabulary for Criminal Law has been established.

Objectives
- Students will review vocabulary for Criminal Law.
- Students will experience some reinforcement in the correct spelling of the vocabulary words for Criminal Law.

Materials
- Handout 1-19: Word Search for Criminal Law
- Handout 1-20: Answer for Word Search for Criminal Law

Procedures
■ Distribute the Word Search, Handout 1-19, whenever there is 5-10 minutes remaining in the class period and you have already completed the rest of the lesson for that day.

■ Post the answer, Handout 1-20, to the Word Search the following day, or photocopy the answer handout and distribute.

W	T	Q	L
X	**O**	S	M
E	Z	**R**	B
S	D	V	**D**

Word Search

W	T	Q	L
X	O	S	M
E	Z	R	B
S	D	V	D

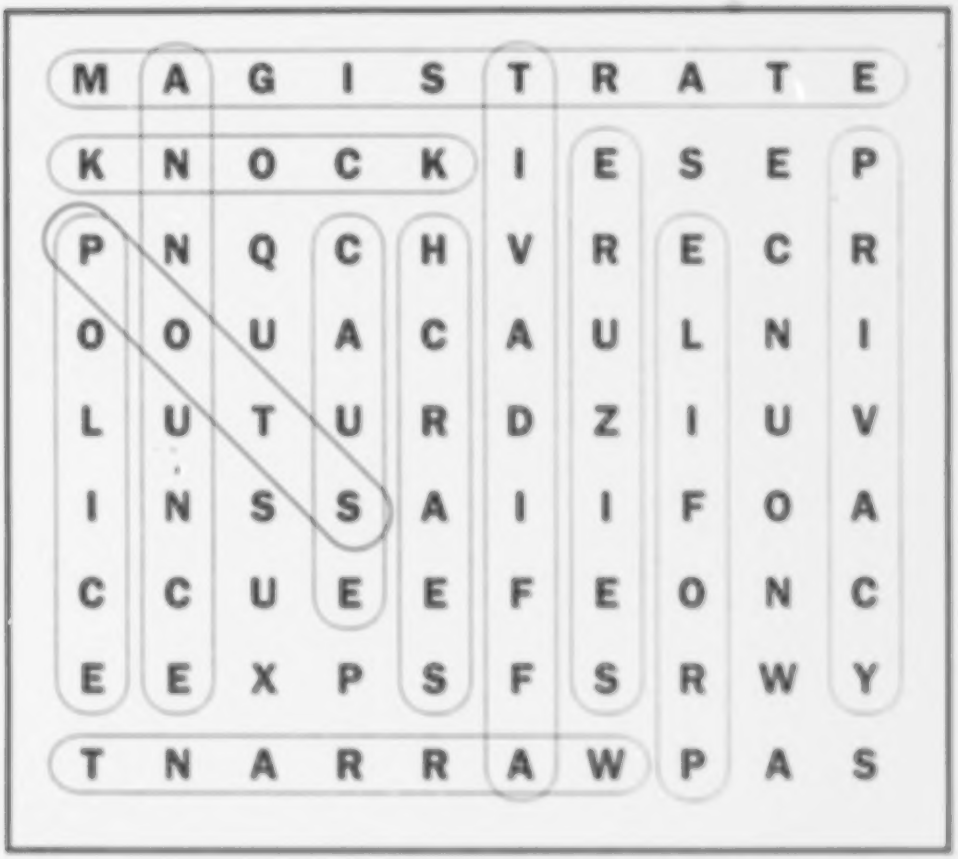
Find the following words that concern criminal law:

magistrate	**announce**	**stop**
profile	**affidavit**	**knock**
seizure	**privacy**	**warrant**
search	**police**	**cause**

M	A	G	I	S	T	R	A	T	E
K	N	O	C	K	I	E	S	E	P
P	N	Q	C	H	V	R	E	C	R
O	O	U	A	C	A	U	L	N	I
L	U	T	U	R	D	Z	I	U	V
I	N	S	S	A	I	I	F	O	A
C	C	U	E	E	F	E	O	N	C
E	E	X	P	S	F	S	R	W	Y
T	N	A	R	R	A	W	P	A	S

Answer to Word Search

W	T	Q	L
X	O	S	M
E	Z	R	B
S	D	V	D



Family Law in Washington

Description of Unit

This unit begins with social studies lessons, the first giving an overview of family law, using an opinion poll activity. The next activity is a case study about child support and paternity issues. Then, students look at considerations in getting married, and the legal requirements to get married. Finally, the state law about child abuse is examined, with hypothetical examples for students to apply the law.

The Language Arts lessons for family law begin with an activity in which students explore the power of words in various contexts. Students discuss whether particular statements constitute emotional abuse. The activity concludes with several journal writing options.

The Language Arts lessons then build on the hypotheticals about child abuse discussed by the students in the social studies lessons. Using two "close call" hypotheticals, students develop arguments for either the defendant or the prosecution and then roleplay attorneys making oral arguments to the court.

Using a well-known poem by Pacific Northwest poet Theodore Roethke, students explore textual support for two markedly different interpretations, one of which suggests the poem is about child abuse. The poetry lessons conclude with the students writing a one-page interpretation of the poem.

Students also listen to a short story about love and marriage written in letter form, and write letters in response.

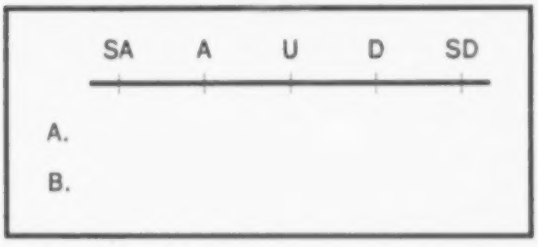
Finally, students learn to develop support for positions on controversial family law topics such as whether pregnant women who take drugs should be prosecuted for child abuse, whether contraceptives should be distributed in public high schools, and whether two people of the same sex should be allowed to marry. Using a mock editorial board as a setting, students will test out their arguments orally on their peers and then write an editorial on the position the board takes.

Social Studies Objectives

- Students will examine their opinions about controversial issues in family law, and listen to and respond to the opinions of other students.
- Students will state the Washington law regarding various family law issues.
- Students will analyze a paternity case, and identify how the rights of the child are considered.
- Students will rank and discuss factors that may be considered in deciding whether to get married.
- Students will read and describe hypothetical situations and discuss whether the parties should be able to marry.

before they learn about family law, you want to find out what their opinions are. Pass out Handout 2-1. Allow 5 minutes or so for students to complete the opinion poll. Tell students they are to give their opinions, not what they think the law is.

■ **While students are completing** the handout, draw a grid on the board to record their responses. (SA = Strongly Agree; A = Agree; U = Undecided; D = Disagree; SD = Strongly Disagree.) For example:



■ **Debrief student opinions**. Develop a class composite first, by taking a show of hands for each statement, and recording the results on the chart.

■ **In leading the discussion**, ask students to justify, or give reasons for their opinions. Encourage exchange between students, rather than just between yourself and the students, by asking students to respond to opinions of fellow students that differ from their own.

■ **After discussion of opinions** about each statement, tell students what the state of the law in Washington is in regard to the statement. When students' opinions vary from the law, ask whether they think the law should be changed. What could they do to affect that process? (write legislator, etc.) Allow 30-35 minutes for the debriefing of all questions.

■ **Conclude the lesson** by telling students they will now be looking at some specific areas of family law in more depth.

> Note: The Language Arts lesson "Writing Editorials" could be done at this point.

Opinion Poll: State of the Law

Remember, it is important to stress that there is no "correct" opinion. The state of the law in Washington is presented here, but again, there is not a "correct" answer to an opinion poll.

A. **If a wife wishes to have an abortion she should be able to do so without the consent of her husband.**

The U.S. Supreme Court has ruled that a spouse's consent cannot be required before a woman has an abortion. The Court based its opinion on the fact that the woman physically bears the child and is more directly affected, and to allow the husband veto power would allow him to stop the abortion for any or no reason at all. In June 1992 the U.S. Supreme Court, in *Planned Parenthood of S.E.Pennsylvania v. Casey*, struck down a provision in a Pennsylvania law requiring that husbands be notified before an abortion.

B. **Husbands should have to support their wives, but wives should not have to support their husbands.**

In Washington, neither spouse is required to support the other. Under Washington's community property laws, all property acquired during a marriage, including

wages of either the husband or wife, is considered to belong to both the husband and wife, equally.

C. **A husband who physically abuses his wife should be prosecuted for criminal assault.**

Washington has a comprehensive law dealing with spouse abuse. Under this law, if a spouse, former spouse, someone you live with or used to live with, someone you are related to by blood or marriage, someone you have a child with, or someone you have a dating relationship with (if the parties are 16 years old or over), abuses you, you can get help from either the criminal justice system or the civil legal system. The police are trained in special procedures to deal with domestic violence and must arrest a person who has abused (which means hit, or threaten to hit) and harmed you within the last four hours. The abuser will be prosecuted for criminal assault, and/or any other crime that has been committed.

D. **If a wife is forced to have unwanted intercourse with her husband, she should be allowed to file criminal rape charges against her husband.**

In Washington, a wife can file rape charges against her husband if he forces her to have intercourse with him. Rape in the first degree is the appropriate charge if the husband either uses a deadly weapon (or what appears to be a deadly weapon), kidnaps the wife, seriously injures her, or breaks into her house. He can be charged with rape in the second degree if he forces her to have intercourse with him or he has intercourse with her when she is incapable of consenting because she is physically helpless or mentally incapable of consenting.
It is not rape for a husband to have intercourse with his wife without her consent.

E. **Pregnant women who take drugs or drink alcohol to excess while pregnant should be prosecuted for child abuse.**

The Washington Attorney General's Office has indicated that it considers a situation where a child is born addicted to or affected by illegal drugs as a result of the mother's drug use during pregnancy "child abuse or neglect." This is an evolving area of the law and is under study by prosecuting attorneys around the state and the Attorney General's office. In October 1992 a California judge sentenced a mother to six years in prison because her breast milk, which was contaminated with methamphetamine, killed her baby daughter. The prosecutor said that the woman could have been charged with second-degree murder. She was, however, charged with child endangerment and pled guilty to that charge.

F. **Contraceptives should be distributed at schools.**

The U.S. Supreme Court has held that *sale* of contraceptives to minors cannot be prohibited. Whether condoms or other contraceptives should be distributed at schools is being debated at many school boards across the country. The spread of AIDS and high rates of teenage pregnancy are cited as reasons in favor of distribution.

G. **Women who are convicted of child abuse should be required to receive a birth control implant to prevent them from having more children.**

In 1991, a California judge ordered a woman convicted of child abuse to have the Norplant device implanted in her arm for three years, as a condition of her parole. The case was appealed, but the Appeals court ruled it moot (or no longer an open question due to a change in circumstances) because the woman violated her parole by using drugs.

H. **If parents get divorced, the children should be able to decide which parent they want to live with.**

In Washington, the Parenting Act governs how courts will decide which parent a child will reside with. The court must decide what is in the best interest of the child. Factors the court considers include the strength of the child's relationship with each parent, the age of the child, and each parent's ability to care for the child. If the child is "sufficiently mature," the court may consider the child's wishes.

I. **Parents should have the right to discipline their children according to their own judgment.**

Parents do not have a free hand in disciplining their children. The child abuse laws specifically define abuse and what types of punishment are considered abuse. Only "reasonable and moderate" physical discipline is allowed. These laws are discussed in detail later in this unit.

J. **If two people of the same sex want to get married, they should be allowed to.**

Although there is no law specifically forbidding same sex marriages, there is a Washington case upholding a county auditor's refusal to issue a marriage license to two men.

Paternity

Procedures

■ **Ask students** to read Handout 2-2 (you might ask for a volunteer to read aloud while other students follow along.) Make sure that everyone understands the facts of the case, by listing important facts on the board. Then ask students: what does a court need to decide here? Probe them about whose interests are at stake? (Encourage students to note that the child's interests are involved.)

■ **Divide students** into groups of three to five students each. Assign half of the groups to represent Leon and the other half to represent Kelly. Tell each group to choose a spokesperson and a recorder. Give them about 20 minutes to work. Then, ask for arguments from each group. You might also ask three students to be a panel of judges, and make a decision.

■ **After students have made** their arguments, tell them what the court decided in this case. Ask how they feel about the court's decision. Students will probably be shocked at the outcome. Encourage a discussion about why the court would

consider the child's interests to be paramount.

Answers for the Teacher

The arguments for Leon, besides those mentioned in the facts could be that she chose to have this child against his wishes and she should be required to support it; that he should not be required to pay the six months back child support because she did not let him know that she was seeking support for those months, and that he is not the father.

Arguments for Kelly could be that she told Leon she was no longer using birth control, and he took the risk that she could become pregnant; the child is born and they are both responsible now to provide for the child, regardless of fault; she cannot afford to support herself and the child, and since he is the father he must pay.

This is similar to an actual case from Washington, decided in 1984. In that case, the father sought to set off his damages in his action against the mother for breach of contract, to lessen his future child support obligation. The court ruled that it could not consider the father's claims because in a paternity case under the Uniform Parentage Act, the only issues for consideration are the needs of the child, and the parents' ability to support the child. The court stated "Nothing in the UPA [Uniform Parentage Act] permits parents in an action brought thereunder to litigate the issue of whether or not they in fact wanted the child."

The court concluded that the father's claims, even if true, are not facts to be considered by the court in determining the amount of child support to be paid.

Marriage

Procedures

■ **Begin by asking** students what images they associate with marriage. (You might also bring in a picture of a wedding to initiate discussion.) Are weddings considered a special occasion? Is there a ceremony? If so, what type of ceremony is held? Is it considered a time of celebration? What sort of customs or symbols accompany the occasion?

■ **Then ask students**: Why do people decide to get married? What reasons can they think of for why a couple should get married? Spend a few minutes brainstorming some reasons. Then, pass out Handout 2-3. (If students have listed factors not mentioned in the Handout that are clearly important to them, you may ask everyone to add those to the list on Handout 2-3.) Explain that you are asking for them to give their opinion about the importance of the listed factors to a successful marriage. Ask students to rank the factors from "1" to "10," with "1" being the most important. Go through and read each factor, and make sure all students understand the meaning. Give students about ten minutes to rank their responses.

■ **Discuss the responses**. You may wish to record the answers on a grid on the board, showing how the class ranked the different factors. Ask students to explain why they ranked the factors as they did.

■ If you have foreign-born ESL students, ask them to write about how weddings are held or celebrated in their native country.

■ **Tell students** that you will now be discussing the legal requirements for marriage in this state. Ask students what rules they are aware of regarding getting married.

■ **Tell students** that you will be discussing some hypothetical, or "pretend" cases, and deciding together whether the people should be able to get married or not.

■ **Give each student** a copy of Handout 2-4. Ask for volunteers to read each one. (Depending on the reading level of the class, you may read aloud yourself, and ask students to follow along.) Discuss each hypothetical, first making sure that students understand the facts. Then allow students to explain why they think the parties *should* or *should not* be able to get married. Then state the rule of law illustrated. Information and possible points of discussion about each hypothetical are provided below.

The goal is for students to understand the requirements for marriage in Washington, so that they can complete Handout 2-5, a summary of the rules. Spend about 30 minutes on this activity.

Information regarding each hypothetical

A. Ask for a show of hands regarding whether Sambath and Sangin should be able to marry or not. In some cultures, marriage at 14 may be customary. Allow any students familiar with this custom to explain why this is. Ask students *why* a girl as young as 14 should be allowed to marry. (One reason may be an expectation that childbearing is a major role of the wife, and once she is old enough to bear children, she should be allowed to marry. Another explanation may be that the girl's family cannot support her.)

Then, explain that in Washington State (and most other states), a man and woman must be at least 18 to marry. If, however, either the man or woman is 17 years old, they may marry with parental consent. If either of the parties is under 17, they may marry only with the consent of a superior court judge.

B. Explain that marriage between close relatives is not allowed. A couple may not be closer than second cousins.

C. Both parties must consent to be married. If Mai's father forces Vinh to marry Mai against his will, there is no consent. You may wish to discuss the legal definition of consent (knowing, voluntary agreement).

D. In the U.S. both men and women are allowed to have only one wife or husband. Discuss the reasons for this rule.

E. This is not a legal marriage. This example illustrates several rules: the parties may have lacked the capacity to consent to marry due to the drinking; they did not obtain a marriage license; and Marco is not qualified to conduct the marriage.

- Explain that the parties must knowingly consent to be married. If they were really drunk, they may not have known what they were doing.
- Explain that a marriage license must be obtained before marriage, at the

county auditor's office. A fee of $50 is collected, and the license is valid three days after the date of application. The license expires in 60 days, if no marriage has taken place.

- The marriage ceremony must be performed by a judge, court commissioner, or regularly licensed or ordained minister, priest, or rabbi of any church.

F. The marriage here is not valid under Washington law because there was no license, and the bride is under 18. This hypothetical is based on the Hmong custom of "marriage by capture."

In some cases like this, kidnapping and rape charges have been filed by the women involved. Some courts have either reduced charges or lessened the sentence in these cases, based on "cultural defenses"—meaning that the party's action should be considered in light of the fact that the activity was acceptable in their native country.

■ **Give each student** a copy of Handout 2-5, and ask them to work in pairs to complete it. Allow about 15 minutes for students. Circulate around the room, in case students have questions. Then, review the answers with the entire class. (Answer sheet follows the student handout.)

Note: The Language Arts lessons "Listening Skills and Letters as a Short Story Form" could be used at this point.

Child Abuse and Neglect

Procedures

■ **What happens** when things go wrong between parents and children? Introduce the topic of child abuse and neglect by writing "CHILD ABUSE AND NEGLECT" on the board, and asking students to name any words they associate with "child abuse and neglect." Write significant words on the board as they are mentioned.

■ **Explain to students** that in Washington (and in every state) there is a specific law against child abuse or neglect. It is summarized at the top of Handout 2-6 . Read the law aloud to the students, or have them read to themselves, then review it.

Note: *It is important that students understand that physical discipline of children is not always illegal*, as long as it is "reasonable or moderate." Parents may, for example, use an open hand to hit their child on the buttocks, as long as it does not leave lasting bruises or marks.

In working with the hypothetical examples in Handout 2-6, you will need to help students understand that many cases do not have a clear "yes" or "no" answer. The definition of abuse or neglect is pretty vague, and it is often a matter of argument whether or not a child's health, welfare, or safety is endangered. Lawyers make arguments either for a finding of abuse or not, and it is the judge's job to decide whether the parent's conduct should be considered abuse or neglect.

■ **Students may ask** how the state finds out about cases of child abuse. Certain people are required by law to report to Child Protective Services if they have reasonable cause to believe that a child has been abused or neglected. Those required to report are doctors, nurses, school teachers, social service counselors, psychologists, druggists, day care providers, juvenile probation officers, and employees of the Department of Social and Health Services. The persons who report can ask that their names be kept confidential. CPS can keep confidentiality through the investigation phase, but if the case goes to court, the reporting person's name can be revealed.

■ **Tell students** they will now be acting as lawyers to apply the law to some hypothetical situations. Tell students that lawyers are known for their ability to make arguments to support one or the other side of an issue. They will now have the opportunity to make arguments for why the actions in Handout 2-6 should or should not be considered child abuse.

First, ask students to read and think about the hypothetical examples in Handout 2-6 individually. Explain that they are to respond whether or not the situation described *is* or *is not* child abuse or neglect, based on Washington's law. Then ask them to work with a partner and compare their answers, and come up with a joint response, if possible.

(Some of the hypothetical situations could also be used as role-plays and then discussed by the class as a whole.)

> The Language Arts lessons include extended versions of hypotheticals C, F, and I and detailed instructions for making oral arguments to a court.

Information for the teacher about the hypotheticals:

A. **Tom, who is 15, came home four hours late from a basketball game at his school. His father hit him in the face with his fist, giving Tom a black eye.**

This would be abuse under Washington's law, which prohibits striking a child with a closed fist. (Number 2, under the examples of physical abuse.)

B. **Vannary is eight years old. Her mother leaves her to take care of her three younger sisters, who are five, four, and two years old, while she goes shopping. The mother is gone for two hours.**

This would probably be considered neglect, since an eight-year-old child is usually not mature enough to handle the responsibility of three younger siblings. You might ask students, "Would it make a difference if there were supervision from the next door neighbor?" (Probably not, unless the next door neighbor lives very close and has agreed to check in often.)

This example is a good one to use to illustrate how the customs in another country may be very different. If this is an ESL class, ask students whether the dangers in their native country are the same or different from where they presently live. For example, the dangers to children in a city in the U.S. may be very different from those they might have faced in a rural area, without cars and other urban hazards.

C. **Two parents work full time. During the summer, they give their 12 year old daughter full responsibility to take care of the household, including two younger children, while they go to work.**

This might be considered neglect, since a child this young may not be mature enough to be responsible for an entire household and younger children. However, it will depend on the child's level of maturity, and details of the home situation. This should be a good opportunity for discussion and comparison with the custom in other countries.

D. **Dawit's parents will not allow him to go on any school field trips.**

While this may not be considered reasonable behavior by some people, this would not be considered child abuse or neglect. You may want to discuss why Dawit's parents do not want him to go on field trips, and ways they could be reassured.

E. **Jane is six years old. Her parents tie her to the bed while they go out shopping so that she will not run away.**

This might be considered child abuse, as treatment that might endanger the child's health or safety. For example, what if there were a fire in the house while the parents were gone? Ask students what other information they might want to know. (Do the parents intend to hurt the child?) Intent to harm is not required for a finding of child abuse.

F. **Tim, age 9, disobeyed his father. He is asked to kneel on uncooked rice for an hour.**

This could go either way, but is probably not child abuse. Ask students for arguments for both sides. Does it cause bodily harm greater than transient pain? Would this treatment endanger the child's health, safety, or welfare? It could be considered emotionally harmful, or cruel or inhumane treatment.

G. **Maria is 16. Her father regularly gets into bed with her and has sexual intercourse.**

This would definitely be sexual abuse.

H. **Carla is 13. Her stepfather touches her breasts through her clothing and makes her touch his genitals.**

This would definitely be sexual abuse. Sexual touching, even through clothing, is considered abuse.

I. **George, a single parent with three children, is barely able to pay all of his bills each month. He does not buy new school clothes for his kids and feeds them just one meal a day. Somehow, George always seems to find enough money for beer and cigarettes.**

This might be considered neglect. The question would be whether George is making a reasonable effort to provide for his children.

J. **A mother uses her hand to spank her ten-year-old daughter until she cries.**

This would probably not be considered child abuse, unless the spanking goes on long enough to leave more than temporary marks.

■ **Ask students** to write about what they learned after reviewing the hypotheticals, and applying the law. For example, students could be asked to complete the following sentences:

- *After studying the child abuse law, I learned . . .*
- *I was surprised that . . .*

Note: Other Language Arts lessons about child abuse and neglect include the study of Theodore Roethke's poem "My Papa's Waltz" and The Power of Words.

Breach of an Oral Contract? Whose Rights Count?

Kelly and Leon have dated for six months. They are both 18, and live in Washington state. At the beginning of their sexual relationship, Kelly tells Leon that she has a disease that makes her infertile (unable to have children). Leon insists that Kelly use birth control anyway. Leon does not use any form of contraception.

Kelly becomes pregnant. Leon asks her to have an abortion, since he is not ready to marry, and has plans to go to college. Kelly refuses. They break up, and Leon does not hear from Kelly until a year later, when he is served with papers in a paternity action against him. Kelly's suit asks that Leon be declared the father of the child, and pay support of $350 per month. She also asks Leon to reimburse her for her medical expenses during the pregnancy, and for support for the last six months, since the baby was born. Kelly claims that she told Leon after a few months of their relationship that she was no longer using contraceptives.

Leon hires an attorney to represent him because he feels he should not be required to support this child. He denies that Kelly ever told him that she had stopped using birth control.

Leon's attorney argues that Kelly breached an oral contract between them to use birth control. He also argues that her refusal to have an abortion increased Leon's damages caused by her breach of the contract. He also argues that Kelly was careless and negligent in failing to use birth control, and that she intentionally lied to him about whether she was using it.

Leon hires an attorney to represent him because he feels he should not be required to support this child. He says Kelly never told him that she had stopped using birth control.

Leon's attorney argues that Kelly broke an oral promise (a contract) between them to use birth control. He also argues that her refusal to have an abortion increased Leon's damages caused by her breach of the contract. He also argues that Kelly was careless and negligent in failing to use birth control, and that she intentionally lied to him about whether she was using it.

Should They Be Able to Get Married?

A. Sambath is 17 and Sangin is 14. They have known each other since they were small children, and care about each other very much. Their parents have agreed that they should marry. Should they be able to get married now? Why or why not?

B. Eric's wife died ten years ago. He has seven children. Since his wife died, he has depended on his niece, Sarah, to help with the cooking and cleaning. Sarah is about to graduate from high school and wants to leave home. Eric has decided that he will marry Sarah so that she will stay and help him take care of the other children. Should he be able to marry Sarah?

C. Vinh and Mai are 18, and have been dating for a year. Mai becomes pregnant. Vinh does not want to get married. Mai's father finds Vinh and forces him at gunpoint to marry Mai. Should Vinh be forced to marry Mai?

D. Sirhan came to the U.S. three years ago with his wife. In his native country, men were allowed to have more than one wife. Sirhan would like to marry Carla also. Should he be able to marry Carla?

E. Carlos and Anna decide to get married one night at a party where they have been drinking. They ask their friend Marco to marry them at the party. Marco, a college student, performs the ceremony. Should this be considered a legal marriage? Why or why not?

F. Na, who is 21, kidnaps Muanghin, 15, from her parent's home one night. He takes her to his family's home, where she stays for three days, and then they are married. Should this marriage be considered legal?

Marriage Requirements

1. To apply for a marriage license in Washington, the man and woman must be at least _____ years old. If one of them is only _____ years old, they may marry with consent of a parent or guardian. A _____ court judge must give permission for a man and woman to marry if either of them is younger than 17 years old.

2. Someone cannot be forced to get married. In other words, both parties must _____ to be married.

3. First cousins can get married in Washington State.
   True _____ or False _____

4. To apply for a marriage license, you must go to the _____ and pay $_____. The license is valid _____ days from the date of application.

5. Three people who can perform a marriage ceremony are:

   _____

   _____

   _____

Answer Sheet

1. To apply for a marriage license in Washington, the man and woman must be at least __18__ years old. If one of them is only __17__ years old, they may marry with consent of a parent or guardian. A __SUPERIOR__ court judge must give permission for a man and woman to marry if either of them is younger than 17 years old.

2. Someone cannot be forced to get married. In other words, both parties must __CONSENT__ to be married.

3. First cousins can get married in Washington State.
   True _____ or False __X__

4. To apply for a marriage license, you must go to the:
   __COUNTY AUDITOR'S OFFICE__
   and pay $__50__.
   The license is valid __3__ days from the date of application.

5. Three people who can perform a marriage ceremony are:

   __JUDGE__

   __PRIEST__

   __RABBI__

   __MINISTER__

   __COURT COMMISSIONER__

Language Arts Activities for Family Law

The Power of Words

Sequence

This Language Arts lesson should be presented after the students have been introduced to the law on Child Abuse and Neglect in the Social Studies unit.

Objectives

- Students will examine the power, both positive and negative, of words.
- Students will discuss whether context changes the power of a given piece of language.
- Students will consider how to apply ambiguous language.

Materials

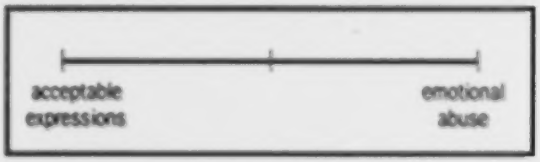
- Student journals

> **Note**: Journal writing can be used with this unit. See the introductory material to this curriculum for general directions on using journal writing in language arts classes and for the appropriate student handouts on journal writing.

Procedures

■ **Have students** list some negative things parents may say to their children. For example, "I am disappointed in you," "You'll never amount to anything," and "My life has been a mess ever since you were born."

■ **Ask individual students** to read their lists. As they do, as a class decide where to place these statements on a continuum from acceptable expressions of the parent's thoughts to emotional abuse. Record enough of the language so that the class can remember what the statement was.



■ **Using Family Law Handout 2-6**, the language of the law on Child Abuse and Neglect, have a student read aloud to the class the language pertaining to emotional abuse.

■ **Now have the class** select a statement from the continuum that they believe, if said to a child repeatedly by the parent, may make that child feel that he or she was not loved, wanted, or worthless. Discuss whether the statement is abusive in and of itself or whether the particular child it is said to makes a difference. For example, does it make a difference if "My life has been a mess ever since you were born" is said by a parent to a five-year-old child

with a severe physical handicap; to a street-smart 14-year-old who has joined a gang; to an eighth grade girl who makes straight A's, stars on the basketball team, and has been elected student body president; to a shy 16-year-old boy who is overweight and has acne? Discuss whether the law takes such differences into account. Should it? Are there other circumstances that a judge should consider in determining whether there was or wasn't emotional abuse? For example, should the judge consider something a child did to provoke the parent?

■ **Assign one** of the following for journal writing or allow the students to select from the list:

- In your opinion, is the language clear about what is emotional abuse in the Child Abuse and Neglect law of Washington? If so, do you believe a judge can assess the circumstances in a given situation and make a fair judgment given the law's language? If not, how would you re-write the emotional abuse language, and why would you make the changes you are recommending?
- List some negative things children say to their parents. For example, "You always take John's (a brother) side," "I wish you weren't my mother," and "I hate you." Which if any of these statements do you consider "parent abuse"?
- Discuss whether there should be a law comparable to child abuse and neglect for parent abuse.
- Should the standards of behavior for adults and children be different? Why or why not?

Additional journal triggers for Child Abuse and Neglect Unit:

- Do you think Washington's Child Abuse and Neglect Laws adequately cover situations between parents and their children? If not, what would you change or add to the law?
- In your opinion, should any physical discipline be legal? Why or why not?

Developing Persuasive Arguments and Oral Skills

Sequence

This Language Arts lesson can be done after students have discussed the hypothetical situations in the Family Law Unit on Child Abuse and Neglect.

Objectives

- Students will identify facts that support their position.
- Students will develop supporting facts into arguments.
- Students will exercise judgment as to which arguments are the most persuasive.
- Students will practice revising arguments to make them more persuasive.
- Students will practice making oral arguments from notes rather than from a script.
- Students will become aware of what makes some arguments more persuasive than others.

Materials

- Index Cards
- Handout 2-7: Expanded Version of Hypothetical C
- Handout 2-8: Expanded Version of Hypothetical F
- Handout 2-9: Expanded Version of Hypothetical I

Time Estimate

Approximately 3-4 class periods

Use of Outside Resource Persons

A judge or a teacher from another class

Use of Small Groups

This unit uses small groups. See the introductory material to this curriculum for general directions on using small groups in language arts classes.

Procedures

■ **Select two** of the hypotheticals in which there was a strong difference of opinion in the class about whether the situation constituted abuse or neglect (probably numbers C, F, or I). Read aloud expanded versions of each of the two hypotheticals. (See Handouts 2-7, 2-8, and 2-9. If you select a different hypothetical for the following activities, write an expanded version of that hypothetical that provides some arguing points for both the prosecution and the defense.) Students should follow along on their own copies.

■ **Once the expanded versions** of the hypotheticals have been read aloud, divide the class into four groups. Group 1 will be the prosecutor's office in the first hypothetical; group 2 will be a law firm representing the parent in the first hypothetical; group 3 will be the prosecutor's office for the second hypothetical; and group 4 will be a law firm representing the parent in the second hypothetical. (You may want to allow students to state a preference for which hypothetical they work on and which side they represent.) Explain to the class that prosecutors represent the State, or the government and their job is to enforce the child abuse and neglect law. Each group should then congregate in one of the four corners of the classroom. The law firms may want to give themselves a name.

■ **Explain to the students** that lawyers are sometimes required to give oral arguments to a judge and that each of their groups needs to prepare an oral argument for their side.

■ **Within the groups**, the students should select both a group leader and a recorder. (You may want to assign these roles at the same time as you break the class into the four groups.) The responsibility of the leader is to keep the discussion under control and on task. The recorder should record the ideas and decisions of the group. (See the introductory material in the Language Arts Teacher's Guide for more information on how to use small groups.)

■ **Each group should** then develop three lists: facts that tend to support that there was abuse or neglect, facts that tend to support that there was not abuse or neglect, and facts that can go either way.

■ **Each group should** then brainstorm all the possible argument points its client (or the State) might want to make to a

judge in oral argument about why the incident was not (or was) abuse or neglect. The recorder should list the arguments on the board (or on a sheet large enough so that the group can see them). Using the list, the group should then decide which are the 3 or 4 most persuasive argument points it could make to the judge on its client's (or the State's) behalf.

For example, the group defending the parents in hypothetical C might list the following arguments:

A. Liza has attended and passed a babysitting class at the YMCA.

B. The parents call home to check on the situation.

C. The community has a 911 emergency line.

D. The grandmother is only five minutes away.

■ **Once the most persuasive** arguments are selected, the groups should then assign a pair (some "pairs" may have 3 members) of students from that group to *develop* one of the argument points.

In order to develop their argument point with specifics, the group will need to interview or depose the parent, child, or others with knowledge of the incident. (The teacher, a student, or another teacher can roleplay these parts. Those roleplaying the parts and answering the groups' questions should be briefed about the expanded hypothetical and told to give consistent answers to the groups that may want to interview or depose them. If possible, they may want to answer some questions in ways that favor one side and other questions in ways that favor the other side.)

Before the interview or deposition, the pairs should think through and write down the questions they want to ask. Remind them that they are hoping to get specifics that will help them make their argument. Remind them that, like real lawyers, they are unlikely to get useful specifics unless they ask the right questions. Have them take notes on the interview or deposition.

For example, the pair who wishes to develop argument #B, "the parents call home to check on the situation," might ask the following questions:

- Do both parents call home during the day?
- How often do they call?
- At what times, exactly?
- How long are the phone calls?
- What do they talk about?
- Is Liza allowed to call either or both parents at work?
- If so, are the numbers easy for her to find, especially in an emergency?

(These questions and their answers should be available to both sides. This can be accomplished by having representatives from the other side listen to the interview or deposition or by making each pair responsible for giving a copy of the questions and answers to their opponents. What is important here is that both sides should be using the same facts.)

■ **Once they have obtained** their specific information, the pairs should think through exactly how they would make this point to a judge and write down the language they recommend into a paragraph or two. Once the paragraph is written, the

pair should read it over several times so that members of the pair internalize (not memorize) the language of the argument point. They should then reduce the paragraph to a few key phrases and record these phrases on a 3 x 5 index card.

For example, a pair developing argument point #B from the answers given to their questions might write the following paragraph:

> *Liza, the twelve-year-old, has regular telephone contact with both parents. The father calls her every morning at 10:00 to check on the children. The mother calls at 12:30 to be sure that lunch went smoothly and to talk to the youngest child before her nap. The mother calls again at 3:00 to check on things. At any time, Liza is allowed to call either parent at work. Both of their work numbers are clearly posted next to the telephone.*

The pairs should then reduce their paragraph to the following key phrases on a note card:

- Regular phone contact
- Father, 10:00 call
- Mother, 12:30, lunch and nap
- Mother, 3:00 check-up call
- Can call anytime at work
- Both numbers posted by phone

■ **The groups should then** reconvene so that the pairs can share with the group how they have developed their argument point. One of the members of each pair should present their argument point orally to the group, *without reading it*, using only their note card. Encourage students to treat these presentations to the rest of their group as mini practice rounds for the argument to the judge.

■ **The group should then** decide on the order in which these three or four argument points from the pairs should be made to the judge.

■ **The group should then** select a representative speaker from the law firm group or prosecutor's office who will make their arguments to the judge. (The speaker should not be the same student who was selected as the leader or the recorder.) Each pair should give the representative speaker its written paragraph and its note card. Using only the note cards, the representative speaker should practice giving the oral argument to the group.

■ **After this practice round**, the group can make further recommendations about how the points should be made and phrased. (You may want to give the speakers time limits on their arguments if, based on what you can tell from the practice rounds, the arguments seem to be running too long.)

■ **Reconvene the entire class**. If possible, invite an outsider (ideally a real judge or possibly a teacher from another class) to serve as the judge. Before serving as judge, the individual should be briefed on the law on child abuse and neglect.

■ **Read one of the expanded** hypotheticals to the judge before the oral arguments are given. *After reading the paragraphs and using only the note cards and not the paragraphs*, the representative

speaker from each law firm and prosecutor's office should present the group's oral argument. **The arguments should not be read**. The prosecutor's office should go first; the parent's firm should go second.

■ **Students who are involved** in the other hypothetical case should take notes about the arguments and, individually, decide on what they thought was the most persuasive argument from each side.

■ **Before the judge** renders a decision, he or she should tell the class how he or she was disposed to rule after hearing only the expanded hypothetical and not the arguments. The judge should then render his or her decision, stating briefly which of the arguments he or she found most persuasive. After the judge's decision and reasons are announced, the rest of the class can share what it thought were the most persuasive arguments. This can be done through discussion or just a show of hands.

■ **Repeat the same process** for the second hypothetical.

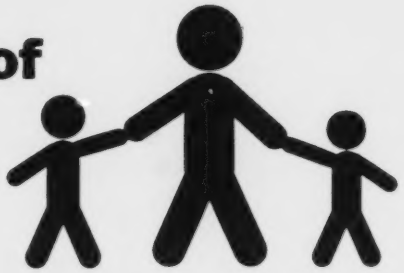
■ **You may wish** to end the lesson at this point, or you may want to close with a discussion about what makes some arguments more persuasive than others. Generally, arguments are more persuasive:

1. If they "connect" with the decision-maker's values and get the decision-maker to identify with your point of view or at least see things from your point of view;
2. If they are specific and detailed; and
3. If they are expressed clearly and in vivid, memorable language.

For example, the argument that the parents are in regular phone contact with the twelve-year-old is far more persuasive and memorable when you add the details of the times of the calls and the fact that the mother talks to a child before it takes a nap. These facts paint a picture of a conscientious mother, not a neglectful one.

By contrast, there is a point in which very emotional and overly dramatic arguments "turn people off." Emotion without substance usually doesn't work. Exaggerations or outright lying makes the person making the argument lose credibility.

Expanded Version of Hypothetical C



Mr. and Mrs. Smith are working parents who leave their home and two younger children, Sarah (age 2) and Zachary (age 9), in the care of their 12-year-old daughter Liza during the summer. Zachary is unusually active and has some behavior problems. Sarah takes a nap after lunch. None of the children are allowed to have friends over while the parents are at work.

Liza is mature for her age. She asked to have this responsibility in the summer because she dislikes having older babysitters. She has taken both a first-aid course and a babysitting course at the local YMCA, and she frequently does other evening babysitting during the school year for neighbors.

The Smiths are well off financially. They can easily afford other daycare, and there is a quality daycare five minutes from Mr. Smith's office. The YMCA offers day camp for 10- to 14-year-olds.

The Smiths live in a "bedroom community" where few people are at home in the neighborhood during the day. Both of their places of work are approximately a half hour away from home. Mrs. Smith's mother, who is 80 years old, lives five minutes away from the family home. The nearest health facility is five miles away. The community that the Smiths live in has a 911 emergency line.

Liza has the responsibility for preparing lunch for the three of them; she is not supposed to use the stove or oven, but she is allowed to use the microwave. Mr. and Mrs. Smith each call Liza during the day to check up on things.

Expanded Version of Hypothetical F

Tim Lee is a very picky eater. He dislikes many foods, including rice, and has twice taken rice that his father served him and thrown it on the floor in disgust.

Mr. Lee, Tim's father, believes that it is "morally wrong" to waste food. The first time Tim threw rice on the floor, Mr. Lee lectured him about this behavior and threatened that there would be "serious consequences" if Tim ever did anything like that again.

The next time Tim was served rice by his father, Tim once again threw the rice on the floor in disgust. Mr. Lee lectured again, this time extensively about why wasting food was wrong, and told Tim that he must pick one of three punishments so that he would learn from this experience. The three punishments were (1) picking the rice up off the floor and eating it, (2) going to bed without dinner, or (3) kneeling on uncooked rice for one hour. (Mr. Lee believes that punishments should be related in some way to the wrong behavior.) Tim picked kneeling on the uncooked rice for one hour. After kneeling on the uncooked rice for one hour, Mr. Lee said to Tim, "I hope you learned your lesson."

In the week following the punishment, Tim woke up screaming from nightmares twice. Since the punishment, Tim has had a decrease in his appetite. He also continues to complain about sore knees, although the marks the rice left on his knees were gone the next morning.

Tim's teacher reports that once after the incident he had a panic attack in the school lunchroom when rice was served. When asked about the lunchroom panic attack, he refused to talk about either incident. She also says that he has become withdrawn.

Expanded Version of Hypothetical I

George Griffin is a widower who is mildly retarded. Because of his limited intelligence and education, he has few job opportunities. Consequently, he is now employed as a newspaper carrier for the local newspaper. Because he is an adult, the paper has allowed him to handle the equivalent of three routes. He must pay for the papers before he can distribute them, and then he relies on his customers to make timely payments to him for their papers. If 95% of his customers pay on time, which is typical, he is able to pay the rent, utilities bills, and grocery bill for one meal a day for him and his three children. Some customers are notorious for not paying on time, especially when they have extra bills themselves. Others forget an occasional payment or send in late payments because they were out of town. George finds this inability to count on a certain income very frustrating. He often turns to beer to relieve his stress, even though he knows he cannot afford it.

He is also addicted to cigarettes, which he says are the only way he can stay awake when he drives around in the early morning hours to deliver all the papers.

George refuses to ask his mother for financial help because she is already making a big sacrifice by coming over at 3:00 a.m. to be with the children while he delivers the papers.

The children qualify for the free breakfast and lunch program at school, but on weekends and school holidays and in the summer they have only the one meal George provides.

George receives no medical or dental benefits from his job. His children have had all their vaccinations from a free medical clinic, but they "ride out" all normal childhood illnesses without seeing a doctor. The school nurse has provided them with toothbrushes and toothpaste and they are part of the school flouride program, but they have never seen a dentist.

George never has enough extra money for new clothes for the children. Instead they rely on hand-me-downs from neighbors.

"My Papa's Waltz" by Theodore Roethke

Sequence
This Language Arts lesson can be done after the students have completed the Family Law lessons on Child Abuse and Neglect.

Objectives
- Students will be exposed to the poetry of a famous Pacific Northwest poet, Theodore Roethke.
- Students will be exposed to two conflicting interpretations of a well-known poem.
- Students will review distinguishing facts from inferences.
- Students will find evidence in the poem to support both interpretations.
- Students will practice developing counterarguments.
- Students will write a short expository essay taking a position on the interpretation of the poem and offering evidence from the poem to support that position.

Materials
- Handout 2-10: "My Papa's Waltz"
- Handout 2-11: Two interpretations of "My Papa's Waltz"

Vocabulary
Countenance—Appearance, especially the expression of the face

Procedures
■ **If the students** are not already familiar with Roethke, briefly introduce him and his work. (See Teacher's Notes for background on Roethke in the lesson about "Moss-Gathering," Handout 3-20 in the Environmental Law unit)

■ **Tell students** that you will be reading one of Roethke's best known poems and that readers of this poem have come up with at least two distinctly different interpretations of the poem. Explain that the differences in the interpretations come from the different inferences people draw from the same set of facts. Give some examples of what is a fact and what is an inference.

Example: If you see a car going down the freeway at 70 miles an hour in a 55-mile-an-hour zone, it is a fact that the person is speeding.

One observing the speeding, however, may draw different inferences from this fact. One may infer:

1. That the driver is in a hurry;
2. That the driver does not care about endangering others; or
3. That the driver has lost control of the car.

■ **Once the students** are clear about the differences between facts and inferences, pass out Handout 2-10 and read the poem aloud to the students. The students should follow along on their own copy. Review any vocabulary in the poem that the students don't know. For example, you may need to explain that "countenance" means a person's face. Then ask another student, preferably one of the stronger oral readers, to read the poem aloud again. Then ask the students what is happening in the poem.

■ **Make sure** that they understand the basic "facts" in the poem. You may want to make two columns on the board to distinguish "facts" from "inferences."

Example:

Facts	Inferences
The mother is frowning.	The mother disapproves of what is happening.
The boy hung on to his father during the "dance."	The boy is afraid.

■ **Show the students** the following two interpretations of "My Papa's Waltz" on Handout 2-11 by using a transparency on the overhead, by passing out a photocopy, or by simply writing them on the board. Ask the students to make a tentative decision for themselves about which interpretation they agree with. Assure them that they can change their minds later. They should not tell anyone what they decided yet.

■ **Now have the students** read the poem silently to themselves. As they read, they should underline evidence that supports the interpretation that they tentatively agreed with. Remind them to consider the title as part of the poem and therefore potential evidence for their interpretation.

For example, students who agree with interpretation #1 might underline "whiskey on his breath" while students who agree with interpretation #2 might underline "Papa."

■ **Now have the students** read the poem silently to themselves again, but this time they should *circle* the evidence that supports the interpretation that they did not tentatively agree with.

■ **After the students** have finished circling and underlining, discuss as a group what evidence they found for both interpretations. As the students offer their evidence, record it on the board under two columns. After each piece of evidence that is offered, ask the class whether it is a fact or an inference. Mark the facts with a capital "F" and the inferences with a capital "I."

Example:

Abusive incident	Affectionate moment
Father was drunk. (I)	Child calls father "papa." (F)

(Obviously there may be differences of opinion about whether something is a fact or an inference.) Be sure to point out to students how two sides can draw completely different inferences from the same fact.

■ **Ask the students** to once again make a tentative decision about which interpretation of the poem is the better one. Once again, they should not tell anyone what they decided yet. Assure students that this is still a tentative decision and that they may change their minds later.

■ **Now ask the students** what is the most persuasive evidence for each side, and ask them to explain why that evidence is persuasive. Do this with several pieces of evidence.

- **Example 1**: The father hurt the child physically in three different ways: He spun him until he was dizzy, he scraped the child's ear with his belt buckle, and he hit him on the head. This is persua-

sive evidence that the incident was abusive because the child was physically hurt.

- **Example 2**: The poet would not have used the word "waltz" to describe an abusive encounter between a parent and child. This word choice is persuasive evidence because poets deliberately choose words to suggest how their readers should interpret facts, and this choice of words suggests that the incident was an affectionate moment because "waltz" conveys a positive experience.

■ **Ask the students** what counterarguments they can offer that would refute the persuasive arguments that were discussed above.

- **Counterargument for Example 1**: Spinning a child is often a playful activity that children enjoy, even when it makes them dizzy. The scrape by the belt buckle was an accident. When the poet says the father "beat time on his head," he does not mean the father hit him hard. These were affectionate pats on the head.
- **Counterargument for Example 2**: Poets often use words ironically. A real waltz is smooth and graceful. This "waltz" was drunken and clumsy, to say the least. In a real waltz, no one gets hurt.

■ **After the students** have examined the evidence that supports and refutes both interpretations, ask if anyone has a third possible interpretation of the poem. If so, ask for evidence from the poem that supports that interpretation.

■ **Once the students** have discussed any additional and the original two interpretations, have them write a one-page explanation of what "My Papa's Waltz" means. They may begin their paper with one of the following sentences or a similar sentence of their own:

- *I think "My Papa's Waltz" by Theodore Roethke is about an abusive incident between a father and son.*
- *I think "My Papa's Waltz" by Theodore Roethke is about an affectionate moment between a father and son.*

Their paper should include one or more paragraphs that develop the evidence that supports their opening sentence. (**Option**: Their paper may also include one or more paragraphs that refute the other interpretation.) Their paper should include a closing paragraph that discusses whether or not they liked the poem and why.

Option: Ask those students who decide that the incident was abusive whether this would constitute abuse under the law.

My Papa's Waltz

The whiskey on your breath
Could make a small boy dizzy
But I hung on like death:
Such waltzing was not easy.

We romped until the pans
Slid from the kitchen shelf:
My mother's countenance
Could not unfrown itself.

The hand that held my wrist
Was battered on one knuckle:
At every step you missed
My right ear scraped a buckle.

You beat time on my head
With a palm caked hard by dirt.
Then waltzed me off to bed
Still clinging to your shirt.

— Theodore Roethke, 1948.

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Two Interpretations of "My Papa's Waltz"

Interpretation 1:
"My Papa's Waltz" is about an abusive incident between a father and his son.

Interpretation 2:
"My Papa's Waltz" is about an affectionate moment between a father and his son.

Writing Editorials

Sequence
This Language Arts lesson should be used after students have done the "Introduction to Family Law Opinion Poll" and reviewed the state of the law on contraceptives in public schools, on pregnant women taking drugs, and on same-sex marriages.

Objectives
- Students will examine the genre of editorial writing.
- Students will experience writing from a required point of view, even though some may not share that point of view.
- Students will have an opportunity to practice their oral persuasive skills and their written persuasive skills.
- Students will examine other real world writing in which the writer may be required to write with a particular point of view.
- Students will examine the role "conviction" plays in persuasive writing.

Materials
- Editorials from several newspapers on a variety of topics. Ideally, some of the editorials should concern some of the issues discussed in the law-related classes. *The Arts & Media in America: Freedom or Censorship?* edited by Oliver Trager, Facts On File (New York 1991) is an excellent resource.
- **Optional**: Videotapes of editorials from local television stations.

Use of Outside Resource Persons
Editorial writer or editorial board member from a local newspaper or television station.

Use of Small Groups
This unit uses small groups. See the introductory material to this curriculum for general directions on using small groups in language arts classes.

Procedures
■ **Bring in a collection** of editorials from several newspapers on a variety of topics. Either through photocopies or by passing the editorials around, have the students read three to five editorials so that they get a feel for this genre.

■ **Optional**: With the station's permission, show a videotape of editorials on one of your local channels.

■ **Discuss who writes** editorials for newspapers and television and what their intended purpose is. Discuss the role of an editorial board and how it determines the point of view a newspaper (or television station) will take. A guest speaker who is an editorial writer may also be the one who discusses editorials with the students.

■ **Break up the class** into three editorial boards:
- One will consider the issue of whether pregnant women who take drugs should be prosecuted for child abuse;
- One will consider the issue of whether contraceptives should be distributed in public schools; and
- One will consider the issue of whether two people of the same sex should be allowed to get married. (You may have

additional editorial boards that will consider other family law issues, but be sure that the law is evolving on the issue.)

■ **Independently, each member** of each board should jot down a preliminary vote on the issue and list his or her main reasons for this vote. Stress that the preliminary vote is in no way binding and that board members should feel free to change their minds after they participate in the discussion.

■ **The boards should** then convene to discuss what view their paper (or television station) will take on this issue. Each board should select an Editor-in-Chief whose job is to make sure that everyone gets to speak and that the discussion stays under control and on track. To begin the discussion, each board member should state his or her preliminary vote and the reasons. The group should then be allowed approximately 10 minutes for "open discussion" of the issue. After the open discussion, the board should vote again. Once there is a clear majority, that becomes the view of the board.

■ **Tell students** that unlike real editorial boards where one person is assigned to write for all, in this exercise each board member will write an editorial, but all must adopt the position voted on by the board. This means, of course, that some board members may have to write from a point of view that they do not personally share.

■ **You may want** to discuss other real world instances in which people are required to express points of view that they do not personally agree with (lawyers, speech writers, insurance adjusters). You may also want to discuss the ethical concerns related to such writing.

■ **Tell the students** that the editorial should be no longer than one typed page or two handwritten pages. The editorial should include the two or three most persuasive arguments supporting the board's point of view. *Editorials should be signed with a pen name, not the writer's real name.* The writer should turn in a separate sheet to the teacher with his or her real name and pen name.

Option: Editorial writers for television stations may wish to videotape their editorials.

■ **Once the editorials** are written, make copies to distribute to the class. Ask the readers to see if they can identify those writers who did not personally believe in the point of view their board adopted. (This may not be possible with the videotape option.) What was it about some of the editorials that made the readers feel that the writer believed in what he or she was saying?

■ **Ask the students** who had to write from a point of view that they did not share whether that requirement bothered them. Did it change any of their opinions about the issue? Did they feel like a "hired gun" or what some attorneys call "an argument for hire"?

Option: Rather than have all board members write from the board's point of view, each board member can write an editorial from his or her own point of view. Have students use pen names rather than real names. After the class reads the

editorials, ask them which ones they found persuasive and why. The writers of the editorials should not identify themselves so that this part of the exercise does not become a popularity contest.

Option: Send the best editorials to the school or city newspaper for publication.

Listening Skills and Letters as a Short Story Form

Description of Unit

This Language Arts lesson can be done any time after the students have done the "Opinion Survey — Marriage" Handout 2-3 in the Social Studies Unit.

Objectives

- The students will practice listening carefully.
- The students will be exposed to the idea of using a letter as the format for a short story.
- The students will find evidence in a story to support their point of view.
- The students will practice letter writing, either as a short story or as a response to an author about a piece of writing.

Materials

The short story "Do You Know That Feeling?" from *A Couple of Kooks and Other Stories About Love* by Cynthia Rylant. A copy is included after the teaching procedures.

Vocabulary

Smitten—To be struck suddenly and strongly with some feeling, often love.

Time Estimate

Two class periods.

Use of Small Groups

This unit uses small groups. See the introductory material to this curriculum for general directions on using small groups in language arts classes.

Use of Journal Writing

Journal writing can be used with this unit. See the introductory material to this curriculum for general directions on using journal writing in language arts classes and for the appropriate student handouts on journal writing.

Procedures (Day One)

■ **Tell the students** that you are going to read a short story aloud to them and that you want them to (1) listen carefully and (2) take a few brief notes along the way. Have the students fold a sheet of paper in half lengthwise. On one half, they should make a list of the things the letter writer (Crystal) in the story says she does not like about the boy (Charlie); on the other half, they should make a list of the things she says she likes about him.

■ **Discuss** the vocabulary term "smitten." Read the story aloud, fairly slowly and with expression.

■ **Before discussing** the lists, ask the students if they know why the girl is writing to her Mama rather than just talking to her. Make sure that they understand that the mother is dead.

■ **Ask the students** what reasons they listed for why Crystal does not like Charlie. Record their answers on the board. Ask the students for the reasons they listed for why Crystal does like Charlie. Record their answers on the board. What, in their opinion, is the main reason why Crystal likes Charlie? Are there any hints in the story about why Crystal is vulnerable and apt to like someone because he likes her? Who is she living with?

■ **Reread the ninth paragraph** in the story that begins "When I'm in the Buick with him" and ends with "Do you know that feeling?" Ask the class if this is a description of love? If not, what is it a description of?

■ **Reread the second to last** paragraph, which begins "This boy — Charlie —." Ask the class if this is a description of love? If not, what is it a description of?

■ **Refer to the results** of the "Opinion Survey — Marriage" from the Social Studies Unit. Based on what the class thought were the most important factors to a successful marriage, should Crystal and Charlie marry? Why or why not?

■ **Ask the students** if, based upon their reading of "Do You Know That Feeling?" they think anything else should be added to the list of factors for a successful marriage.

■ **Assign one** of the following writing activities:

- Write a response to Crystal as though you were her Mama. Tell her whether or not this is love and whether or not she should marry Charlie.
- Create a different pair of young lovers and, as one of the members of the pair, write to Mama about the relationship. Make sure that your made-up pair do not have a "perfect relationship."
- Write a letter to the author, Cynthia Rylant, telling her what you liked or disliked about her short story.

■ **If time permits**, reread the entire story to the class before the students begin their writing assignment.

Procedures (Day Two)

■ Organize the class into reading groups of approximately four members each. Within the groups, each member should take a turn reading aloud his or her letter written for the assignment. Encourage the students to read slowly and with expression. After each letter is read, the group should briefly discuss what they think are the key strengths of that letter. After all the letters have been read, the group should select the one or two best letters that they recommend be read to the class as a whole. The best letters should then be read to the class. Allow the class to briefly discuss the key strengths of each of these letters.

Optional Journal Trigger: Can people have a "good marriage" if they don't love each other? Why or why not?

Do You Know That Feeling?

Dear Mama,

Waiting is always the hardest part. He works at the gas station and stops by after work and you know how I always have to have everything ready to go right on the dot? Well, he loves chicken noodle soup from the box and Duncan Hines fudge brownies and nearly every night when he comes by I will have one or the other ready for him and sometimes both. I'll get the soup to boil and then to simmering exactly ten to nine when he's supposed to come at nine. Or I'll put the brownies in at eight-twenty-seven on the dot so they'll have twenty-five minutes to bake and eight minutes exactly to cool for coming out of the pan. And more times than not, he'll be late. I'll try to keep the soup from going all greasy on top and the brownies from getting hard around the edges, but still somewhat warm, and I swear to you, Mama, with a young man waiting is the hardest part.

I never expected to like this boy, Ma. He's just barely tall as I am and has acne something awful. He's got these big acne boils on his back, and when I give him a back scratch, it's like trying to follow a particularly tricky road map, I have to take all these detours and bypasses. That's so he won't get one of those things hooked by my fingernails. His teeth aren't too good either, Mama. One day he came to school with his front lip swollen straight out like the cover of a *National Geographic* because one of his rotten teeth had caused some bad infection in his mouth. I barely recognized him, I swear it, and I got this flash as I looked at him that love is fickle indeed, Mama, because if he had stayed looking like that, there is no way on God's good earth I would have continued going steady with that boy.

But some penicillin in the hind end got his lip back to normal, and I can live with the zits and a few bad teeth.

I like him, Mama, don't ask me why. Maybe the reason I like him so much is because he likes *me* so much. You wouldn't believe how totally smitten he is with me. Is it possible, do you think, to love somebody just because he's so good at loving *you*, or is that the most conceited thing you ever heard of? He loves my hair, Mama. Says I have the prettiest hair he's ever seen. And the biggest lonesome eyes. But I won't tell you what he says about my legs, to save us both from blushing.

And his own mother is like a mama to me, if it's all right to tell you that. We'll drive over to his house after sixth period (seniors get to skip seventh period if they've got a job), and his house'll be empty

and we'll make us some hot instant tea with a teaspoon of sugar and some canned milk and we'll have a piece of apple pie or lemon pound cake from the fridge because we know how happy it makes his mama when we eat up her food. And we'll sit at the kitchen table without turning on any lights in the house even if it's cloudy outside, talking about getting married and buying a trailer first and living in the Doy Mobile Home Park and then after maybe five years getting a house out here somewhere close to his mama's house so he can help out and I'll have some company.

We talk about having babies, too, but maybe I better skip that part with you, Mama. I *will* say that my very first girl will be named after you, Harriet Elizabeth Armstrong.

I just like doing stuff with him, Mama. We'll go over to the armory if there's a car show in town and get a couple chili dogs and walk around looking. Or we'll go out to his big brother Harold's house and him and Harold will go out with their rifles looking to get a couple squirrels while me and Sharon set in the kitchen with the baby and I'll tell her whatever problems I'm having and she'll give me advice like we were sisters.

When I'm in the Buick with him, driving the roads late of a night, I feel safer than anywhere in the world, Mama, and my chest gets so full of happiness that I have to take deep breaths to live through it. Do you know that feeling?

There's some *real* personal stuff I need to talk to you about sometime. I haven't figured out yet what to do. If his big brother Harold didn't put it in his head that boys have *got* to have it—you know—that they're different from girls and just can't live without it once they turn teenagers, well, we wouldn't have the arguments we do. There was a time when I thought I couldn't wait to have it, too, but lately I'm so tired of his got-to-have-it that I'm not so sure I ever want it, if it makes me feel as bad inside as this. *Are* boys different from girls, Mama? I mean, is there something wrong with me or something wrong with him? Nearly everybody I know is doing it with somebody and I'm wondering if there's any among them who's really not having that wonderful a time, but I'm afraid to ask for fear there really is something wrong with me and somebody'll know then.

I just thought it would be different, watching them movies all those years.

He didn't want me to be in the school musical this year, so I didn't try out. He said he wanted me to be home when he gets off work from the gas station, not up at the school with all those boys. (He never has trusted Jim Wickline since Jim said something about me in the locker room,

and Jim is in all the plays and he knew Jim'd be trying out for this one.) So I just stocked up on boxed soup and brownie mixes and stayed home watching TV till nine. Or later. I hate that waiting, Mama.

I hear from Daddy out in California. He wants me to come out there and live, but I tell him I like it here with Aunt Vi and Uncle David. Aunt Vi and I like to talk about you. At first she wasn't sure if I could take it, but I *wanted* to talk, so we sit around and she'll tell me the trouble you two were always getting into. She misses you as much as me and every now and then she'll be gone of a Sunday morning and I'll know she's over to the cemetery visiting with you. I got this whole notebook full of these letters so I don't need to go as much as Aunt Vi. Seems I'm talking to you all the time in this notebook, and even though the letters are all one-way, sometimes I'll get this feeling you're listening to me writing and even answering as best you can because right in the middle of writing about something I'll get this big flash of knowing what to do about it, like my mama just gave me the answer.

You remember that time I wanted that new Journey album so bad, I was so in love with them, and all the stores in town sold out before I could get one so you had one shipped up that very night on the Greyhound out of Charleston? I never forgot that, waiting in the parking lot of the Greyhound station with you, in the dark, for my Journey album to come out of that humongous door just above the wheels. I never will forget that.

This boy—Charlie—he takes good care of me, Mama, and he doesn't run around or anything and I like his family so much. Is that love? I hope I find out for sure because we've already got a trailer picked out and he's counting on me to marry him once he gets hired on at Babcox after graduation. And maybe his acne'll clear up in a couple years.

I'll talk to you later, Ma. I love you a lot.

Crystal

From *A Couple of Kooks and Other Stories About Love* by Cynthia Rylant, Orchard Books: New York, 1990. Reprinted with permission from Orchard Books, New York.

Word Search

Sequence
The word search for Family Law can be done at any time in the unit after the vocabulary for that unit has been established.

Objectives
- Students will review vocabulary for Family Law.
- Students will experience some reinforcement in the correct spelling of the vocabulary words for Family Law.

Materials
- Handout 2-12: Word Search for Family Law
- Handout 2-13: Answer for Word Search for Family Law

Procedures
■ **Distribute the Word Search**, Handout 2-12, whenever there is 5 – 10 minutes remaining in the class period and you have already completed the rest of the lesson for that day.

■ **Post the Answer to the Word Search**, Handout 2-13, the following day, or photocopy the answer handout and distribute.

W	T	Q	L
X	**O**	S	M
E	Z	**R**	B
S	D	V	**D**

Word Search

W	T	Q	L
X	**O**	S	M
E	Z	**R**	B
S	D	V	**D**

Find the following words that concern family law:

abuse
consent
paternity
license
emotional
divorce
child
neglect
marriage
physical
sexual

L	O	O	K	N	A	P	S	P	P
I	P	T	C	E	L	G	E	N	A
C	H	R	I	M	E	G	X	A	T
E	Y	T	S	S	A	B	U	S	E
N	S	D	L	I	H	C	A	R	R
S	I	L	R	Q	U	I	L	I	N
E	C	R	O	V	I	D	U	W	I
L	A	N	O	I	T	O	M	E	T
M	L	C	O	N	S	E	N	T	Y

Word Search

W	T	Q	L
X	O	S	M
E	Z	R	B
S	D	V	D

Find the following words that concern family law:

abuse
consent
paternity
license
emotional
divorce
child
neglect
marriage
physical
sexual

L	O	O	K	N	A	P	S	P	P
I	P	T	C	E	L	G	E	N	A
C	H	R	I	M	E	G	X	A	T
E	Y	T	S	S	A	B	U	S	E
N	S	D	L	I	H	C	A	R	R
S	I	L	R	Q	U	I	L	I	N
E	C	R	O	V	I	D	U	W	I
L	A	N	O	I	T	O	M	E	T
M	L	C	O	N	S	E	N	T	Y

Our Old Growth Forests

Description of Unit

This unit examines the controversy about the use of the old growth forests of Western Washington. Students assess their opinions and present knowledge about old growth forests, and then examine the views of different special interest groups involved in the forest controversy. The unit culminates with a mock Congressional hearing at which various interest groups and scientific experts testify.

Language Arts lessons follow the social studies lessons. The first lesson asks students to examine advertising by environmental groups and the timber industry. Students then write their own ads. The next activity takes students through a process to write an expository essay about the issue for younger readers. A poetry lesson examines imagery in poetry and compares the literary value of two poems. Finally there is a word search.

Social Studies Objectives

- Students will develop and examine their views regarding old growth forests and the spotted owl controversy.
- Students will identify the characteristics of an old growth forest.
- Students will define a "threatened" and "endangered" species.
- Students will review major points in the Endangered Species Act.
- Students will identify a variety of viewpoints on the Northwest timber controversy.
- Students will advocate the position of one special interest group.
- Students will practice lobbying on behalf of their group's position.
- Students will examine the scientific arguments for saving old growth forests, and the timber industry's rationale for harvesting old growth forests.

Materials

- Name tags for hearing
- Handout 3-1: Opinion Poll-Old Growth Forests
- Handout 3-2: Owls vs. Jobs?
- Handout 3-3: Old Growth Forest, True-False Pre-Test
- Handout 3-4: Mock Congressional Lobbying Reception and Hearing — Instructions for Special Interest Groups
- Handout 3-5: Mock Congressional Lobbying Reception and Hearing — Instructions for Congressional Committee
- Handout 3-6: Mock Congressional Lobbying Reception and Hearing — Instructions for Scientific and Economic Experts

- **Handout 3-7: Congressional Lobbying Reception and Hearing** — Role Packet

Time Estimate
The Social Studies lessons will take 5 or 6 class periods.

Opinion Poll Activity

Procedures
■ **Announce that the students** will begin their study of the spotted owl and old growth forests by taking an opinion poll. Pass out Handout 3-1, and ask each student to write "SA" for strongly agree, "A" for agree, "D" for disagree, "SD" for strongly disagree and "U" for undecided beside each of the statements. Inform students that there are no right or wrong answers, and that every opinion is worthwhile, as long as the student can give reasons for that opinion.

■ **Draw a chart** on the board to record students' opinions as they are polled. First get a hand count of how many agree with Statement A, then how many disagree, how many are undecided. After the entire chart is completed, go back to the first statement, and ask for student reasons. Ask those who are undecided what makes it hard for them to decide. Ask one of the ones who agrees or disagrees to respond to that difficulty.

Alternatively, as you call out each question, students can be asked to line up along one side of the room, where you have posted signs for "Strongly Agree," "Agree," "Undecided," "Disagree," and "Strongly Disagree." Students standing at opposite ends of the continuum should be asked for their reasoning, and to respond to those with whom they disagree.

■ **After students** have provided their arguments and reasoning about each statement, you should inform them of the information provided below about each statement.

Supplementary Information for Handout 3-1

A. **Our nation's forests should be used primarily as an economic resource (to build houses, etc.) and put to use in a way that will serve the most people.**

In 1891, Congress gave the President authority to create forest "reservations." Congress decided that our forests should be managed to protect watersheds (the region from which a river draws its water supply) and "to furnish a continuous supply of timber for the use and necessities of citizens of the United States." In 1905, President Theodore Roosevelt, an ardent conservationist, gave authority for managing the forest reservations to the U.S. Forest Service, and appointed Gifford Pinchot as its first chief.

This statement reflects the view of Gifford Pinchot, and represents the view of many foresters today. Pinchot believed in scientific forestry, and that if the forest were managed properly, a continuing supply would support demand. Some say Pinchot would be disappointed with today's management of our national forests.

John Muir, the founder of the Sierra Club, held the opposite view, that the forests should be preserved as wilderness areas.

B. **Logging should be banned in old growth forests, even if loggers will lose their jobs.**

This is the view of many environmental and conservation groups today, who believe that the remaining old growth forests must be preserved as habitat for wildlife and other natural resources, and for recreation.

C. **Wilderness and old growth forests are a spiritual resource, and should be protected as a sanctuary where people can go to escape the noise of the city.**

This is another view of those who seek to preserve the forests. The forests play an important role in the religion and beliefs of Native Americans of the Pacific Northwest. In Native American traditional belief, the tree and the forest are living beings.

D. **There is enough old growth already saved in wilderness areas and national parks. The remaining old growth forests on public land should be available for the forest products industry and the American consumer.**

This is the view of many timber industry groups today.

E. **If the spotted owl becomes extinct, like the dinosaurs did, that's just evolution, and cannot be helped.**

This is the view of many timber industry people, loggers, and others who depend on old growth timber for their livelihood. Many loggers feel they, as loggers, are becoming extinct, without sufficient timber to cut to make a living. You might ask students "have other professions become extinct?" (blacksmith, scrivener)

Environmentalists, on the other hand, say that more than the owl is at stake because the owl is an indicator species for the entire ecosystem within old growth forests. "Indicator species" means that the ability of the owl, which is near the top of the food chain, to survive, is an indication of how the entire ecosystem is doing.

Letter to *The Seattle Times*

■ **Pass out Handout 3-2**, a letter to the *Seattle Times* about the spotted owl controversy. Ask students to read the letter and respond to the following questions.

A. **What is the complaint that the author of this letter is making?**

The author is complaining that the article in the paper, particularly the headline, misrepresented what the issue in the spotted owl controversy really is—the loss of our old growth forests—and sensationalized it as simply jobs vs. owls.

B. **What does the author predict about the logging industry?**

The forest industry is doomed anyway because there will soon be no logs left to harvest because cutting has exceeded the rate of reforestation.

C. **According to the author, why is it so important to act now?**

Unless cutting of the old growth forest is stopped soon, old growth forests will disappear.

D. **Do you think the author is exaggerating or misrepresenting the issue?**

The author ignores other factors that have contributed to the loss of our forests and wildlife, such as development.

E. **What is the role of the legislation to preserve the spotted owl in the author's opinion? Why does she call it a "legal tool?"**

The legislation being used as a "legal tool" is the Endangered Species Act, a federal law that protects the spotted owl from activities that could lead to its extinction. The term legal tool refers to the use of laws to protect the owl for a larger purpose—to protect the entire forest, and in the author's words, the entire planet.

F. **Do you agree with the rewritten headline: "Small down-payment to save the Earth: 28,000 jobs?"**

This calls for an opinion.

G. **What other threats to our forest resource exist?**

Unbridled growth has contributed to the loss of wildlife habitat and forests.

Pre-Test

■ **Once students** have had a chance to examine their *opinions* about this issue, inform them that you will now give them a test of their *knowledge* about old growth forests. This pre-test is designed to highlight common misconceptions about old growth forests, and to introduce the complexity of the issue. The goal is that students see the issue as larger than just "owls vs. jobs." After students have completed the test, go over the answers. The test can be repeated at the end of the unit to check for knowledge gained.

■ **Pass out Handout 3-3.** Explain that this is not a graded test, but a measurement of what they already know about old growth forests.

Answers to Handout 3-3

A. **An old growth forest is any forest in which most trees are older than 100 years.**

False. The definition of an old growth forest is far more complex that the age of the trees within it. While the numbers vary depending on who is quoting, most foresters say that to be considered old growth, the trees must be at least 175 to 200 years old. (The Douglas fir tree can grow to be 1000 years or more, but stands of Douglas fir in western Washington and Oregon have historically been replaced by fire every 500 to 800 years.)

The "signature" of an old growth forest is its diversity—both in terms of the variety of tree species and the age of trees. The mix of old and young trees results in a multi-layered canopy over the forest floor. Standing dead trees, called snags, are an

essential ingredient of the old growth forest, as well as lots of fallen logs and rotting wood on the ground. The dead trees fall and leave gaps in the canopy, letting sunlight in so that young trees can grow.

B. **Most remaining old growth is on publicly-owned federal land, such as national parks.**

True. Federal lands are divided into four categories: the national parks, the national forest system, the lands held by the U.S. Bureau of Land Management, and wilderness areas. Approximately 94% of the remaining old growth forest is on publicly-owned federal land. Some of this is protected in wilderness areas and national parks. Most of it is in higher elevations. Almost all old growth has been logged from private lands. Some old growth remains on state lands in Washington, but it is less than 10% of the remaining forest land.

C. **The national forests belong to you and me, as citizens of the U.S.**

True. As citizens of the United States, we all own the national forests, and the resources within them. If you have a map of Washington and Oregon, this would be a good time to point out our national forests and national parks. These lands are owned and managed by the federal government.

D. **Our national forests and the U.S. Forest Service were created for the sole purpose of preserving forests and the trees within them.**

False. The national forests are supposed to be for multiple uses, which include timber production, recreation, fishing, hunting, and wildlife habitat. When the national forests were originally created, however, there was no pressure to cut timber from them, because private landowners were cutting timber from their lands, and pressured the Forest Service to keep national forest timber off the already glutted market. National forests also were often further from transportation and markets for the lumber than state and private forests.

During and after the Second World War, however, the demand for lumber grew, and wood from national forests took the place of wood from private timberland that was by then less plentiful. The demand for national forest timber has not let up since.

E. **Dead trees are of no value in an old growth forest.**

False. Standing and fallen dead trees are an essential part of the old growth forest ecosystem. Standing dead trees, called snags, provide homes for insects, birds, and mammals. Fallen dead trees open up a hole in the forest canopy when they fall to the ground, allowing sunlight through, and then provide nutrients as they decay.

F. **Tree farms grow wood more efficiently than old growth forests.**

True. In an old growth forest, the growth of trees slows down after about 70 to 100 years, and eventually the trees begin rotting on the inside as quickly as they are growing on the outside. Since these forests reach maturity at about 200 years, their growth slows down, and most of the forest's energy is used to maintain itself. Eventually, the trees either rot, are blown over, or are burned by a forest fire. In the amount of time that this cycle takes, timber companies can grow many crops of trees.

G. **The old growth forests of the Olympic Peninsula of Washington State are temperate rain forests and receive as much as 180 inches of rain a year.**

True. For comparison purposes, a tropical rain forest, such as the Amazon, receives 80 to 100 inches of rain per year. The city of Seattle receives 39 inches of rainfall per year. "Temperate" refers to our climate in the Pacific Northwest, that ranges from fairly hot to fairly cold, as the seasons change.

H. **Old growth forests are "biological deserts," meaning there is little animal and plant life within them.**

False. Only 40 years ago, a Forest Service expert described the ancient forests of the Pacific Northwest as "biological deserts." While tropical rain forests had been studied extensively, the first comprehensive ecological study of the Pacific forest was not published until 1981. It was not until then that biologists and ecologists began to understand the complexity of the Pacific Northwest temperate rain forests.

Only recently have scientists learned that the old growth forests do far more than provide wood. They purify water (as do all forests); provide shelter for wildlife and cool, shady pools and breeding grounds for fish, such as salmon; and increase the local precipitation. A recent study identified 667 species tied to old growth forests.

Old growth forests contain a greater mass of living things, called biomass, than the tropical rain forests (The tropical rain forest contains more *variety* of species than the temperate rain forest.) While a tropical rain forest may contain 185 tons of plants per acre, a Pacific forest will contain 400 tons an acre. Some redwood forests contain as much as 1,800 tons an acre.

I. **A pair of nesting northern spotted owls requires approximately 5,000 acres (which is about 8 square miles—a little bigger than Mercer Island) of old growth forest for their hunting grounds.**

True. Spotted owls are "picky eaters." They have a very specialized diet of small mammals such as flying squirrels, kangaroo rats and mice, and other rodents that are found in old growth forests. They need a large range to find enough of the food they like. They prefer cavities in snags (standing dead trees found in old growth) and the broken tops of tall living trees as nesting sites because they can sit and watch for their prey from these high vantage points.

J. **It takes longer for snow to melt in an old growth forest than in a clear cut area.**

True. Due to the heavy canopy of branches, less sunlight can penetrate an old growth stand. This is beneficial, as it prevents rapid run-off that could cause erosion and flooding.

K. **"New forestry" is another name for the practice of clear cutting.**

False. The new forestry, advocated by foresters such as Jerry Franklin of the University of Washington, suggests leaving living trees and debris in a harvest area to stimulate the growth of fungi and microbial organisms, and to provide habitat for smaller mammals. Decaying wood is an important component in the nutrient cycling process.

L. **Washington State exports more softwood raw logs than any country in the world.**

True, according to a story in the *Seattle Times*, March 31, 1993. Approximately 40 percent of the timber harvested in Washington is shipped overseas as raw logs. Congress placed limits on raw log exports from state lands, starting January 1, 1991. Initially, Washington was allowed to export 25% of logs from Washington state lands. Then the law banned all exports from state lands. There has been a ban on export of raw logs from federal lands for about 20 years. Most logs are shipped to Japan, South Korea, and China, with by far the most going to Japan.

In May 1993, the Ninth Circuit Court of Appeals struck down the law restricting exports from state lands, on the basis that the law allowed Congress to instruct state officials to regulate the timber industry according to Congress' instructions, in violation of the 10th amendment. Congress may go back and revise the law to get around this Constitutional challenge.

Why are logs exported? Because of high prices paid overseas. As of May 1993, export log prices were $1000 to $1300 per 1000 board feet, as compared to $500 to $700 paid by domestic saw mills, according to Jennifer Belcher, Washington State Lands Commissioner. (*Seattle Times*, May 5, 1993).

M. **Nurselogs are logs that baby animals are drawn to when their mother abandons them or is killed.**

False. Nurselogs are fallen, rotting logs on the floor of an old growth forest. Tree seedlings grow out of the downed trees as they decay, therefore they are called nurselogs. They are an important component of the old growth ecosystem.

The Endangered Species Act

■ **Write "Endangered Species Act"** on the board and ask if anyone knows what it is. Why was it passed?

The Endangered Species Act (ESA) is a federal law that was first passed in 1973 to protect species of plants or animals that are threatened by extinction. Since the passage of the Act more than 600 American species have been listed as either endangered or threatened.

■ **Ask what** "endangered species" means.

"Endangered species" is defined in the Act as "any species which is in danger of extinction throughout all or a significant portion of its range."

■ **What does** "threatened species" mean?

"Threatened species" is defined in the Act as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range."

■ **Ask students** if they can name any species that have been listed as endangered or threatened under the Act.

More than 1000 species of plants, animals and fish have been listed under the Act since it was enacted in 1973. Probably the most infamous species listed in the last few years was the snail darter, a tiny fish that delayed construction of the Tellico Dam in Tennessee for two years in the late 1970s.

Other species that have been listed as endangered or threatened under the Act include the bald eagle, peregrine falcon, sea otter, gray wolf, red wolf, condor, grizzly bear, Florida panther, black footed ferret, and whooping crane.

■ **Why is it important** to protect species from extinction?

Genetic diversity is the major rationale for saving species from extinction. The diversity of species is a potential resource to the planet. As the U.S. Supreme Court stated, these species are "keys to puzzles which we cannot solve, and may provide answers to questions which we have not yet learned to ask." [*TVA v. Hill*, 437 U.S. 153, 180 (1977) (the case about the snail darter).] There are many medical applications of chemicals derived from animals and plants, including anticancer agents, antibiotics, antiviral agents, anticoagulants, contraceptives, and antivenoms.

The importance of maintaining natural genetic variation was recognized by Congress in passing this law. When Congress passed the Endangered Species Act it cited the rising extinction rate in the U.S. and the world. At the time the law was passed in 1973, the extinction rate was thought to be one species per year. In 1979, the rate was estimated to be one species per day. Recently, one expert predicted the future rate of extinction to be one hundred species of plants and animals per day. [Linden, "The Death of Birth," *Time*, January 2, 1989, p. 32.]

■ **How do we decide** what species should be listed as endangered or threatened?

The Fish and Wildlife Service, one of the federal agencies charged with enforcing the Act, is directed to consider scientific data and determine whether the species is endangered or threatened. Any economic consequences of listing a species should not be considered. Therefore, the consequences of a cutback in logging were not supposed to be taken into account in deciding whether or not to list the spotted owl.

In fact, a lawsuit was filed by 25 environmental groups, *Northern Spotted Owl v. Hodel*, to require the U.S. Fish and Wildlife Service to list the owl as a threated species. The Service had delayed for years in making a decision about the owl, and then came out with a decision that it was not endangered. In 1988, a federal court judge in Seattle ruled that the Fish and Wildlife Service's decision not to list the bird was "arbitrary and capricious," and ordered the Agency to go back and study the matter again. Later, the General Accounting Service found that the Service had rewritten portions of a major study, taking out critical portions suggesting the owl was endangered. It was not until June 1990 that the owl was finally listed as "threatened." (The decision that the owl is threatened rather than endangered does not have any sigificant effect on the protections that the bird is entitled to.)

■ **What does** the Endangered Species Act have to do with logging and old growth forests?

There is no law that protects old growth forests in their own right. Therefore, the Endangered Species Act has been used by environmentalists in the battle to protect these forests. Scientists first noted that the northern spotted owl might be endangered in 1973. Since that time further studies have shown that the owl probably cannot survive outside of old growth forests.

The law requires the Fish and Wildlife Service to protect a species, once it is determined to be endangered or threatened, from any activity that would jeopardize its existence. This means that logging on lands known to be the home of spotted owls would be prohibited. This includes both public and private lands. Since each

pair of nesting owls requires somewhere between 2500 and 8000 acres of old growth forest to forage for its prey, a large amount of old growth must be preserved if the spotted owl is to survive.

■ **Tell the class** that even though economic considerations may not be considered in deciding whether to list a species, they often play a part in how to protect the species after it is listed. The Secretary of the Interior can make an exemption, or there can be an appeal to the Endangered Species Committee—also known as the "God Committee"—a special congressional panel to whom appeals can be made. The fate of the owl, then, falls to the political arena (where it remains as of this writing).

■ **Ask the class** if they now understand why we call the owl a "legal tool?"

A Congressional Inquiry

Materials
Name tags for 30-35 students

Background Information for Teachers
Wood products are one of the Pacific Northwest's biggest private industries. Our old growth forests have, however, become a national issue, as evidenced by President Clinton's appearance at a timber summit in Portland, Oregon, April 2, 1993. The goal of this lesson is for students to see and hopefully appreciate the wide range of viewpoints in the spotted owl/old growth forest controversy. The emphasis on scientific arguments is not meant to lessen the importance of the economic impact to timber workers of limiting the cutting of our forests, and those views are given equal voice in the role play. In the end, it comes to the political arena, which is where the students are asked to find a solution.

The federal agencies that manage the public lands on which most of the remaining old growth forests lie are ultimately answerable to Congress. These agencies are the U.S. Forest Service (a branch of the U.S. Department of Agriculture), and the following branches of the Department of Interior: the Fish and Wildlife Service (which administers the Endangered Species Act), the Bureau of Land Management, the National Park Service, and the Bureau of Indian Affairs.

In Washington state, old growth forests remain on lands owned by the state, and are managed by the Department of Natural Resources (DNR). Under the Washington State Constitution, the DNR is required to manage the state timber lands to bring the highest amount of money into the state treasury. Some of that money is used for school construction.

Starting January 1991, the export of raw logs from national forests and state-owned lands was banned. (That law was struck down in May 1993, as discussed above.) Senator Packwood and Rep. DeFazio of Oregon have advocated a ban on exports of logs from private land as well.

Note: The views expressed by the various special interest groups in the roleplay packet are not actual quotes, except where noted, but do reflect the views of those groups, as expressed in newspaper articles

and interviews. The "expert" witness roles and the loggers' statements are fictitious, but reflect accurate information.

Procedures

■ **Inform the class** that they will conduct a simulation of a Congressional joint select committee investigating the Northwest timber controversy and the preservation of old growth forests. Each student will play the role of either a member of a special interest group, a scientific expert, or a politician.

Encourage students to do additional research and to create additional roles. Either ask for volunteers or assign students the following roles:

Special Interest Groups (3-4 students each, except Weyerhaeuser)

- The Wilderness Society
- Earth First!
- The Sierra Club
- Washington Forest Action Committee
- Northwest Forest Resource Council
- The Save Forks for the Future Coalition
- Large Timber Company Representative, George Weyerhaeuser, Weyerhaeuser Co

Scientific and Economic Experts

- Fran Forester
- Gerry Ramirez
- Danny Smith
- Pat Wild
- Dr. Terry Thomas
- Jan Sakamoto

Congressional Committee (5-10 students)

- Representative Wood, from Washington State whose district includes the Olympic Peninsula, where logging and wood products are the major source of income.
- Representative Green, from Oregon, whose district includes Portland. This person is leaning toward protecting environmental interests.
- Senator Logan, from Oregon who strongly supports a ban on log exports.

Remaining members are undecided and are not from the Northwest. (They may use their own names.)

■ **Give a copy of Handout 3-4** to each special interest group member, Handout 3-5 to the Congressional committee members, Handout 3-6 to scientists, and a copy of the role packet, Handout 3-7, to everyone. Tell students that before the hearing, they will have an opportunity to lobby their representatives.If time allows, give students the rest of the class period to prepare their roles. During preparation time, have committee members prepare questions for witnesses, have special interest group members individually learn their group's position on the issue, and have the scientists and economist learn their roles.

At the end of class, give the special interest groups at least 15 minutes to meet as a group to plan a lobbying strategy. Refer them to Handout 3-4. The Committee members can also meet at that time and elect a chairperson. Refer them to Handout 3-5. (Scientists should continue to study their roles.) Further preparation can be assigned as homework.

■ **The next class**, inform students that prior to the hearing, there will be a "reception," at which members of the special interest groups will have an opportunity to talk (i.e., lobby) with their representatives

and senators. Everyone will have the opportunity to exchange views with and question the scientific experts there to testify. To insure that everyone stays "on task" during the reception, tell them that after the reception, everyone will list those people they spoke to, and a brief description of what was said.

■ **Give students** name tags identifying their roles. Have the members of the Congressional committee stand first, or wear hats, so that the lobbyists can easily identify them and find them during the reception.

■ **Announce that** the reception will last 20 minutes. During that time, members of the special interest groups should try to talk to as many politicians as possible (at least two). At the same time, the experts should circulate and give their input as appropriate, in response to questions from politicians and group members.

■ **After the reception**, convene the Congressional committee meeting. Set up the room with the committee in front, and those there to testify in the audience. (There probably won't be time to complete the hearing in this class period.)

■ **Ask the chairperson** to call the meeting to order. Allow 35 minutes for testimony. First, each special interest group will have three minutes to present their position, including questions from the panel. The groups may select one spokesperson, or all members may speak. The scientific experts will then have three minutes each to present their testimony, including answering any questions from the committee members. After hearing all of the testimony, the committee will conduct an open discussion, and decide what, if any, action they will take. (Ten minutes). (Alternatively, the committee can meet privately for ten minutes to deliberate. During this time, the rest of the class can write out what action they think the committee should take.) The Chairperson should announce the committee's decision.

■ **After the meeting**, debrief by asking the following questions:

- *Did each special interest group manage to have its views heard? Were some more effective than others? What were the reasons for this?*
- *Were the scientific experts persuasive? Did their views carry more weight with the Committee than the special interest groups? Why or why not?*
- To the committee members: *Was the lobbying exercise useful to you? Why or why not?*
- To the lobbyists: How did it feel to try to influence someone's views?

■ **As an alternative exercise**, the entire class could be divided into groups of seven to eight students, to mediate a solution to the problem. Each mediation group would consist of one member of each of the six special interest groups, and one or two mediators. The same exercise could be done using negotiation or arbitration.

Opinion Poll — Old Growth Forests

Directions: Read the following statements and place the letter that most closely corresponds with your opinion in the left-hand blank.

SA (Strongly Agree), **A** (Agree), **U** (Undecided), **D** (Disagree), or **SD** (Strongly Disagree). There are no right or wrong answers—every opinion is good when you can give reasons for that opinion.

____ A. Our nation's forests should be used primarily as an economic resource (to build houses, etc.) and put to use in a way that will serve the most people.

____ B. Logging should be banned in old growth forests, even if loggers will lose their jobs.

____ C. Wilderness and old growth forests are a spiritual resource, and should be protected as a sanctuary where people can go to escape the noise of the city.

____ D. There is enough old growth already saved in wilderness areas and national parks. The remaining old growth forests on public land should be available for the forest products industry and the American consumer.

____ E. If the spotted owl becomes extinct, like the dinosaurs did, that's just evolution, and cannot be helped.

Owls vs. Jobs?

A Letter to the Editor of *The Seattle Times*

The Seattle Times' front-page headline, "Price to save owl: 28,000 jobs" (May 4, 1990), is yet another flagrant example of journalism designed to inflame and manipulate rather than inform.

The reader is being asked to question whether it is reasonable to sacrifice 28,000 jobs for 1,500 pairs of nesting spotted owls. But that is clearly not the issue and you know it, as do [the] reporters.

Regardless of the fate of the owl, the jobs based on the forest-product boom are doomed for a very simple reason: The rate of harvesting in Northwest forests has vastly exceeded the rate of reforestation, requiring continued decimation of old-growth forests, 90 percent of which have already been destroyed. "Sustainable yield" and "renewable resource" are cruel hoaxes foisted on the public by the timber industry. Touring our state by car or, most revealingly, from the air leads even the casual observer to the conclusion that our magnificent forests are rapidly being converted to a giant stump farm.

The forest resource is disappearing, and the only question is whether we will lose jobs now while we still have an ancient forest ecosystem, with owls, or in the future when it has been destroyed. This is only the beginning. Preservation of other ecosystems upon which our survival depends will require enormous economic and social upheavals, nationally and globally. Legislation to preserve the spotted owl is merely the legal tool to force us to do what we appear to be unable to do by enlightened and creative action; namely, to save our planet.

Your headline would have been infinitely more accurate had it read: "Small down-payment to save the Earth: 28,000 jobs?

A. What is the complaint that the author in this letter is making?

B. What does the author predict about the wood products industry?

C. According to the author, why is it so important to act now?

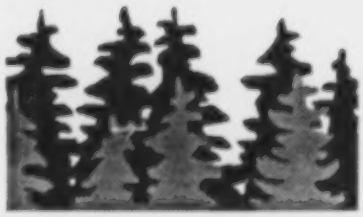
D. Do you think the author is exaggerating or misrepresenting the issue?

E. What is the role of the legislation to preserve the spotted owl in the author's opinion? Why does she call it a legal tool?

F. Do you agree with the rewritten headline: "Small down-payment to save the Earth: 28,000 jobs?"

G. What other threats to our forest resource exist?

Old Growth Forests/Pre-Test



Directions: Write the word TRUE in the blank if you believe that the statement is correct. Write FALSE in the blank if you believe the statement to be incorrect.

____ A. An old growth forest is any forest in which most trees are older than 100 years.

____ B. Most remaining old growth is on publicly-owned federal land, such as national parks.

____ C. The national forests belong to you and me, as citizens of the U.S.

____ D. Our national forests and the U.S. Forest Service were created for the sole purpose of preserving forests and the trees within them.

____ E. Dead trees are of no value in an old growth forest.

____ F. Tree farms grow wood more efficiently than old growth forests.

____ G. The old growth forests of the Olympic Peninsula of Washington State are temperate rainforests, and receive as much as 180 inches of rain a year.

____ H. Old growth forests are "biological deserts," meaning there is little animal and plant life within them.

____ I. A pair of nesting spotted owls requires approximately 5,000 acres (which is about 8 square miles—a little bigger than Mercer Island) of old growth forest for their hunting grounds.

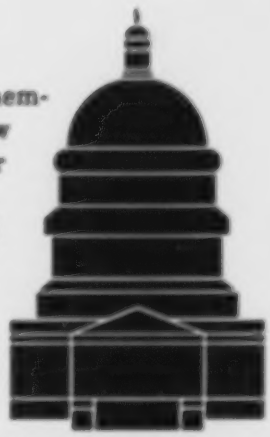
____ J. It takes longer for snow to melt in an old growth forest than in a clear cut area.

____ K. "New forestry" is another name for the practice of clear cutting.

____ L. Washington State exports more softwood raw logs than any country in the world.

____ M. Nurselogs are logs that baby animals are drawn to when their mother abandons them or is killed.

Instructions for Special Interest Groups

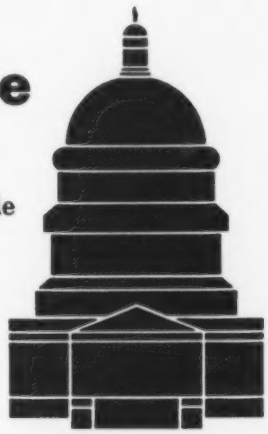


Your goal at the reception is to convince the Committee members that they should find a solution to the problem of how to manage old growth forests that will fit the goals of your group. In planning a strategy, decide whether you will target those politicians who are opposed to your view and try to change their minds, or spend time with those who seem to be undecided.

Determine your best arguments, identify the strengths and weaknesses of your position, and be prepared to respond to questions about your weak points. Keep your presentation brief and to the point. Review the positions of other groups, and point out the weaknesses of the other positions. Review the testimony of the scientific experts, and talk to those experts who you think can help your side. Avoid arguing or interrupting other conversations. Remember that this is a social occasion.

Finally, decide a strategy for the hearing. You may select a spokesperson for the entire group, or you may each testify. Remember, you only have three minutes to testify.

Instructions for Congressional Committee



First, elect a chairperson. (The chairperson is responsible for seeing that each committeeperson's views are heard during committee meetings, for chairing the hearing and for announcing the committee's decision. During the hearing, the chairperson should make sure that speakers do not take more than their allotted time, and keep order.)

Then review this information and Handout 3-7, and prepare questions to ask the lobbyists and scientists, both at the reception and hearing. Each politician should prepare at least two questions to ask the lobbyists during the reception.

As a member of the Congressional Committee, your job is to listen to the scientific experts, and the special interest groups, and come up with a solution that you feel is wise, both in terms of the laws protecting our environment, and in terms of the best interests of the people you represent, your constituents.

At the lobbying reception, listen to as many people as possible, and ask questions to make sure that you understand each group's position. Use the scientific experts as resources. Don't make any promises you can't keep.

Instructions for Scientific and Economic Experts

Your role is to be a resource of scientific and economic information for the committee members. You should study your role and know it thoroughly. You may do additional research if you wish. You should prepare a short (3 minute) presentation of information you think the committee should know about old growth forests.

Congressional Hearing — Role Packet

The Wilderness Society

The Wilderness Society is a national conservation organization dedicated to the proper management and preservation of America's public lands. The Society wants to preserve the maximum amount possible of remaining old growth forests. The Society is also especially concerned that the remaining old growth be preserved in large tracts, sufficient to support wildlife such as the spotted owl. The Society does not support illegal tactics to save the forests, such as tree spiking.

We are asking this committee to set aside sufficient old growth in large tracts sufficient to preserve the northern spotted owl and the old growth ecosystem.

The northern spotted owl is an "indicator species." Because the owl takes so many acres of old growth to survive—as much as 5,000 acres of hunting range per pair of owls—any decline in its population is an early warning that the old-growth ecosystem is in trouble. For example, many years ago, canaries were used in coal mines to warn of poisonous air. When the canaries started to die, the miners knew it was time to get out. The spotted owl plays somewhat the same role for old growth forests. Unfortunately the owls are not doing too well, which triggers alarms for the ancient forest they inhabit.

We are not to the point where we know so much that we can decide which species can live or die. If the spotted owl can survive, as many as 100 other forest species will also be able to survive.

The ancient forests of the Pacific Northwest themselves are endangered. These are not just ordinary trees we are talking about. These are the last living remnants of the Middle Ages. They are world-class treasures. If we sacrificed them for jobs, it could be compared to blowing up medieval cathedrals—Chartres this week, Salisbury next week—to provide jobs. But in the end there'd be no more cathedrals and everyone would be out of work anyway.

The vast ancient forests that once blanketed the Pacific Northwest are rapidly being reduced to only patches of old growth, many of which are already too small to support plant and animal species dependent on the old growth ecosystem.

Once western Oregon and Washington contained 19 million acres of ancient forests. Logging has reduced this amount to only 2.5 million acres, just 12 percent of the original forest!

Congressional Hearing — Role Packet

Washington Forest Action Committee
The Forest Action Committee is an organization of loggers and represents their interests. The members of this committee are all loggers themselves. The Committee wants to cut old growth trees in the national forests, as they have done for years.

We ask Congress to limit the amount of old growth trees protected from logging to a minimum. In fact, we think there is already sufficient old growth in national parks and wilderness areas. We're against banning log exports. We aren't interested in any government handouts, all we want is to continue our livelihood. Don't insult us with low interest loans. All we want is a timber supply.

We are the ones who will most be affected by this debate. We are angry, scared and most of all frustrated. We have long made a modest living from the commercial harvest of the trees in our national forests. Now we are being told that the public at large no longer wants us to cut these forests. We are tired of being the target of political battles and having to absorb 100% of the results of these battles.

The old growth forest may be a fragile ecosystem, but no more fragile than a small, isolated timber town.

Congressional Hearing — Role Packet

Earth First!

Earth First! is a nonviolent, radical environmental group. Their tactics include sitting in trees and communal "tree hugging" to prevent the trees from being cut down, and some members have advocated sabotage against developers and loggers, including the spiking of trees. (This practice involves the driving of spikes into trees in a forest about to be logged to stop loggers from sawing them down. Loggers have been injured when cutting down spiked trees.)

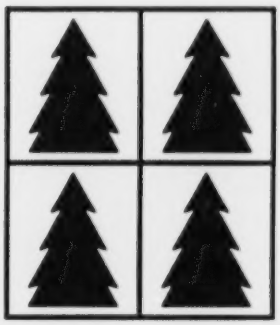
We want this committee to stop all cutting in old growth forests. When we spike trees, we are not trying to hurt loggers, but to make the timber industry have to spend money to find the spikes and remove them. And it gets the kind of headlines that brings wilderness questions out of the back rooms of private industry and government and brings them up for discussion in the light of day.

Our democracy has always moved forward by people willing to break bad laws. It's as American as apple pie. We look back 25 years now, and we can't believe there was a time when black people couldn't go into a restaurant. No one asks about the ethics of breaking segregation laws now. But at the time, that was all you heard, about those black people breaking the law.

In 25 years, people will look back and say, You mean they were cutting down the forests that keep us alive? Thank God there were people who stood up for their convictions and stopped it!

We see the Sierra Club and the Wilderness Society as "couch potato" environmentalists. All they do is sit around and write letters.

Congressional Hearing — Role Packet



Northwest Forest Resource Council
The Council is a coalition of ten forest products industry associations in the Pacific Northwest. Members of the associations are timber companies based in cities, towns and communities in Oregon and Washington that depend on a strong and vital forest products industry for their economic survival.

We ask the committee to find there are already sufficient old growth stands set aside, and to limit any new set-asides to a minimum. Allow us to continue cutting old growth in our national forests until sufficient reforested timber is ready for cutting.

The old growth forests of the Pacific Northwest are a valuable resource. They are the mainstay of the region's forest products industry that employs some 140,000 families and wage-earning people. It is an important ecological and recreational resource as well. Most important, it is a resource found in relative abundance in this region.

According to data compiled by government agencies responsible for managing northwest forests, there are over 7.5 million acres of virgin old growth timber on the federal lands in Washington and Oregon. Little known is the fact that some 4.2 million acres (58%) of these native forests have already been preserved, never to be managed for multiple uses by man. This is an area equal in size to a swath of land two miles wide extending from Portland, Oregon, to Washington, D.C., preserved forever. There will always be old growth forests in the Pacific Northwest.

Less than half the national forests in the Northwest are available for timber production purposes. Old growth timber on these lands is scheduled to be harvested over the next 50 years. As it is harvested, new trees will be planted so that over time a managed forest capable of providing a sustained yield of forest products will result. Over 200 species of birds and wildlife prefer the habitat that young, replanted forests provide.

Congressional Hearing — Role Packet

Sierra Club

The Sierra Club, founded in 1892, is the oldest national organization dedicated to protecting natural resources and the environment. The Sierra Club wants to preserve the maximum amount possible of old growth forests and is giving this issue its highest priority. The Sierra Club does not support the use of illegal tactics, such as those used by Earth First!

We support a ban on log exports as a short term solution to get logs to hungry local mills. We also support aid to logging-dependent communities to help them diversify. Whether the spotted owl or environmentalists existed, many people are going to be out of work in any event. We're convinced that, at the present rate of logging, the ancient forests will be gone in 20 years.

Giant timber companies are advancing on our national forests with bulldozers, saws and axes, wantonly felling trees as never before. They're deforesting the U.S. at the fastest pace in history. And the U.S. Forest Service is helping them!

The Forest Service is the government agency charged with protecting public forest lands and managing logging on those lands. It is responsible for preserving the biological diversity, wildlife habitat and precious watersheds of our national forests. The Forest Service supports the agenda of the timber industry 99 percent of the time.

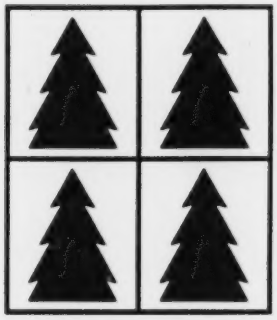
We have been managing our national forests as though they were outdoor warehouses of living trees, held in inventory until the lumber companies are ready to take delivery. Many of these trees are being shipped to Japan, while sawmill workers in the Pacific Northwest are losing jobs.

Congressional Hearing — Role Packet

The Save Forks for the Future Coalition
This is a group of citizens, including loggers, sawmill owners and operators and truckers whose jobs depend on the timber industry. The views represented within this group include:

- **Jackie Ray**, owner of Forks Lumber Supply. Jackie is wearing a hat that says either: "SAVE A LOGGER, KILL AN OWL" or "I love spotted owls... barbecued, fricasseed, baked, stir-fried." "These environmentalists from the city have no idea what the timber industry is all about. You're talking about billions of dollars of lost revenue, thousands of lives destroyed for a *potential*, a *maybe*, net gain of several hundred spotted owls. When it is your life being destroyed, that's pretty hard to understand. If these people don't want logging, they should stop using wood products."
- **Sal Simpson**, owner of Forks Logging Company. "I employed over 200 people a year ago. I've now had to cut my crew to 125, due to the cut-back in the harvest of old growth timber in national forests. These are people with families to feed and mortgages to pay. They have been making $12 to $20/hr. These are not the kind of people who are going to accept welfare or unemployment. They are proud, independent people who want to work in their chosen profession, not be retrained for other jobs."
- **Tom Mills**, owner of the Mills Brothers Sawmill. "These log exports are killing us. My saws are set up to cut the large, old-growth logs we bought from the national forests out here on the Olympic Peninsula. I used to employ 40 people and do millions of dollars in sales. Now, I have six employees, and am hard pressed to pay them. If I can't buy logs, I'm going to have to close up shop soon. I support a ban on all log exports. It just doesn't make sense to send raw logs overseas to be milled when we can do it right here in Forks for less, and employ local people as well."
- **Gary Thomas**, former logger, now correctional officer. "My grandfather and father were loggers, and I cut logs for 20 years, until last year, when I entered the training program at the local corrections center. There's just no future in logging. I'm making less, but at least I know there will always be inmates. Forks needs to look for other industry, such as recreation and tourism. I support more aid to logging communities so that they can diversify."

Congressional Hearing — Role Packet



George Weyerhaeuser, Chief Executive Officer, Weyerhaeuser Co.
Weyerhaeuser is a large timber company that owns vast tracts of timber and many mills. Weyerhaeuser currently exports much of its timber overseas.

"We strongly oppose a ban on log exports.

"There is a public misconception that we are running out of trees. In fact, there are more trees growing in the United States now than there were in 1920. Just last year, Washington's forestland owners planted over 40 million trees. At Weyerhaeuser, we harvest no more than 2 percent of our 1.6 million acres of Washington timber lands in any one year. We replant four to five seedlings for every tree we harvest. Washington law requires that forests be replanted within three years after logging.

"Congress and the public need to understand that there are two timber economies in Washington. The first is represented by people like those here today, from the Save Forks Coalition, and the Forest Action Committee. They depend on trees from public lands for their livelihoods, and are being hit hard by federal set-asides for wilderness and environmental regulation.

"The second is nearly twice the size of the first, and consists of thousands of small, private tree farmers, individual owners [such as Weyerhaeuser], and mills that are geared to grow and process second-growth timber. This group is in no danger of running out of raw materials, because we've been renewing it for decades. Our mills rely almost entirely on the second-growth logs grown on our own lands.

"Both young and old-growth forests have their advantages, and problems. Realistically, society needs both. Old growth clearly has special beauty and ecological value; young forests have unique economic and ecological value.

"We'll keep growing new, young-growth timber as long as companies like Weyerhaeuser can continue to invest in their forests with the confidence that they will have markets in which to sell their products when they mature. And, because domestic demand rises and falls dramatically over time, this means *both* domestic *and* foreign markets."

[Excerpted from Weyerhaeuser's letter to the editor, *The Seattle Times*, May 20, 1990.]

Congressional Hearing — Role Packet

Fran Forester, Forestry Researcher, University of Washington

The old growth forest of the Pacific Northwest is a unique ecosystem containing a diverse mix of trees, including the Douglas fir, western red cedar, western hemlock, and silver fir. I consider an old growth forest to be one containing trees at least 175 to 200 years old. (Some Douglas firs grow to be over 1000 years old).

True old growth forests are characterized by large, old living trees; a multi-layered canopy; large standing dead trees, called snags; and large dead trees on the ground and in streams. The dead trees are essential to the health of the forest, and are the basis of its productivity. The nutrients that the forest needs are not mainly in the soil but in the living and dead plant material itself. As leaves and branches fall, and as trees and plants die and decay, this material is recycled to the living forest. The forest literally feeds itself, wasting nothing.

The trees in a Pacific old growth rain forest support the greatest mass of living things (known as biomass) of any ecosystem on the planet. Where a tropical rain forest may contain 185 tons of plants per acre, a Pacific forest will contain 400 tons an acre. Some redwood forests contain as much as 1,800 tons an acre.

Congressional Hearing — Role Packet

Gerry Ramirez, Forester

Forests, like human beings, have a natural life span. Once they reach maturity, at about 200 years, growth slows down, and most of their energy goes into sustaining themselves. Eventually, though it may take several centuries more, decay sets in, and the trees die and fall down.

While many professional foresters believe that these mature trees should be cut down and replaced with new, growing trees, my research has shown that the phase we call "post-mature" or old growth forest is the richest, most complex phase of the forest's life. While old growth trees may be past their wood-producing prime, they are valuable for many other functions. Crooked trunks, broken tops and other marks of age provide food and shelter for many different types of animals. For example, thick bark is home to many insects, which are food for foraging birds such as the woodpecker and nuthatch.

Fallen logs, called "down woody material," are a reservoir for moisture. In dry weather, even after a fire, the high moisture content of fallen trees encourages fungi to grow. These fungi play an important role in helping tree seedlings to grow out of the downed trees, which are called "nurselogs." Also, as wood decays, concentrations of nitrogen, phosphorous, and other important nutrients build up in the rotting log. These nutrients are released very slowly back into the soil to be used by future generations of trees and other plants.

Fallen logs also help prevent erosion. In streams, they provide nutrients, help stabilize stream banks, and slow water flow by creating pools and waterfalls.

The traditional replanting of forests that contained many species with only one species of trees results in a monoculture. This simplified forest lacks all of the elements of the old growth ecosystem. The removal of ecological diversity and complexity affects the forest's ability to adapt to stress and change.

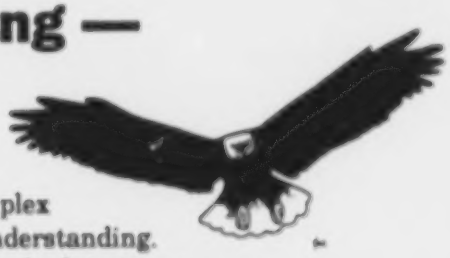
Congressional Hearing — Role Packet

Danny Smith, Ecologist, City Watershed
While younger forests depend on natural rainfall, old growth forests can "make their own rain." The canopy (the multi-layered system of branches that shade the old growth forest and rise high above the forest floor) can condense water out of moist air, fog, and clouds, in some instances adding up to 35 inches to the annual rainfall. A single old growth tree may have sixty to seventy million needles, and a total of 43 thousand square feet of leaf surface. These needles are amazingly efficient at collecting moisture and nutrients from the atmosphere.

For example, when forests were cut from around a watershed area in Oregon, scientists expected the water supply would increase in the reservoir. Instead, the supply dropped. It was found that almost a third of the water in the reservoir had never come from rain. Rather, the tall trees collect it from passing clouds and fog banks. When the trees were cut down, the moisture blew by without depositing the water.

Old growth trees also protect soil and wildlife from the extremes of weather. The dense canopy breaks up the impact of falling rain and snow, preventing erosion, landslides and floods. In the spring, when the snow melts, the cover of the dense forest slows down the snow-melt. For example, snow might remain in an old growth forest one or two months longer than in a clear cut area. This allows water to slowly fill reservoirs, rather than flood them at the first thaw, with much of the water being lost.

Congressional Hearing — Role Packet



Pat Wild, Wildlife Biologist

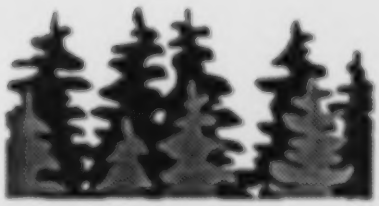
Old growth forests provide the basis for a complex web of life that extends beyond our current understanding. The key to the old growth forest is its diversity, both in terms of the plant and animal species found. The canopy of an old growth forest ranges hundreds of feet above the forest floor and contains many layers. Each layer provides nesting and feeding sites for birds and small mammals. More than 1500 species of insects and other invertebrates may spend all or part of their life cycles in the canopy of an old growth Douglas fir forest. The red tree vole, for example, nests in the old growth trees, licks the moisture off the needles for water, and eats the needles for food, never needing to leave the forest canopy. New species continue to be identified.

Both fallen and standing dead trees in the old growth forest are extremely important in the old-growth forest ecosystem. A tree killed by fire, lightning, insects, or disease may remain standing for 200 years or more. Called "snags," they are colonized by many types of insects, birds, and mammals. The most valuable part of the snags is the cavities that develop in their branches and trunks. At least 45 vertebrate species, from the northern flying squirrel to the northern spotted owl nest or feed only in the cavities of old-growth trees. These animals eat the mosses, lichens, and insects that invade dead or dying trees, and they in turn are eaten by animals higher up the food chain - animals like black bears, pine martens, and bobcats, all of which take shelter in snags. Eagles, owls and hawks use the branches of a snag as lookout posts when they hunt for food. At least 39 bird species and 24 mammal species use snags for courtship, nesting, food, and other activities. Some animals hide nuts and seeds in the snag, saving them for later meals. Others may store dead prey in the snag's cavities. Still others will use the holes created by woodpeckers for homes.

The forest ecosystem is incredibly interdependent. When one species, such as the spotted owl, goes extinct, quite likely many other species go with it.

Maintaining this biological diversity is important for these reasons: 1) it will protect the forest from destruction, should disease or insect infestations strike a single species; 2) it allows greater flexibility to environmental changes, such as extreme cold, fire, or pollution; and 3) it creates a natural environment that includes interactions among species, setting the stage for future evolution.

Congressional Hearing — Role Packet

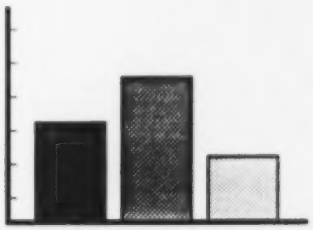


Dr. Terry Thomas, Forest Ecologist

Forests can still be logged and not destroyed if we just change our logging practices. I advocate the "new forestry", what I like to call a "kinder and gentler forestry." This means the growing of diverse forests, not just one species of tree. This means that clear-cutting would no longer be allowed. Mature trees would be left after an area is harvested, along with snags. Some downed logs and other debris would be allowed to remain on the ground. This would result in man-made clearings much like those left by wind and fire. The remaining debris would allow the forest to renew itself, from the rotting logs, organic litter, spores of mycorrhizal fungi, and areas of undisturbed soil.

This would cost more. Some also say that remaining trees would be subject to high winds, and might fall down, injuring loggers and foresters.

Congressional Hearing — Role Packet



Jan Sakamoto, Economist

Regardless of what we do about the northern spotted owl, the wood products industry in Washington State is in decline. In 1978 about 160,000 people were employed in the industry in both Washington and Oregon. That number had decreased to 117,000 by 1992. Today more of the country's wood comes from the southern states. Also technology has made it possible for engineered lumber baked in microwave ovens to replace the huge beams once taken from Northwest old growth forests.

We've been predicting a loss of jobs for decades, since the old growth can't last forever, with or without the owl. I would estimate that about two-thirds of the job losses happening in the 1990's are due to mechanization in the industry, the recession, overcutting in some areas, and Forest Service cutbacks adopted—all unrelated to the fight about the spotted owl. The number of jobs lost could be somewhere between 12,000 to 32,000, depending on who you talk to. One report shows that since 1990, 132 sawmills have closed in the Pacific Northwest, leaving almost 13,000 people out of work.

There are lots of timber-related jobs out of work loggers could do, if the government can come up the money to pay them. Stands of timber need thinning and pruning. Stream banks need to be repaired, trails need rehabilitating. It may be better to pay workers to do this type of work than pay unemployment or welfare. Also, more timber can be turned into more valuable finished products, thus creating more jobs.

As my colleague Ed Whitelaw at the University of Oregon has pointed out, the Pacific Northwest has gained 700,000 jobs in recent years even though the timber industry has been in a slump. Many of those new jobs were attracted by our region's natural beauty, a part of which is our forests.

Language Arts Activities for Environmental law

Writing and Presenting an Advertisement

Sequence

This Language Arts unit can be used after the students have completed the Social Studies unit on the old growth forest controversy.

Objectives

- Students will see how the points of view about the spotted owl controversy are expressed in advertising/public relations materials.
- Students will observe how advertising/public relations material is written for a specific purpose and for specific readers.
- Students will identify specific features of writing that make advertising effective communication.
- Students will write an advertisement with a specific point of view.
- Students will practice making an oral presentation.

Materials

- Handout 3-8: Pacific Salmon Massacre Ad
- Handout 3-9: Smokey Bear Ad
- Handout 3-10: I've Got a Good Lawyer Ad
- Handout 3-11: Two Billion Trees Ad
- Handout 3-12: Clearcuts Are Ugly Ad
- Handout 3-13: Design an Ad for WFP
- Handout 3-14: Design an Ad for FOF
- Handout 3-15: Board's Criteria for Selecting an Ad
- Handout 3-16: Option: T-shirt for WFP
- Handout 3-17: Option: T-shirt for FOF

Time Estimate

Three class periods (four periods if the t-shirt option is used).

Use of Outside Resource Persons

(Optional) Advertising writer.

Use of Small Groups

This unit uses small groups. See the introductory material to this curriculum for general directions on using small groups in language arts classes.

Procedures

■ **Day One**: Distribute Handouts 3-8 to 3-12. Note that the "Two Billion Trees" ad and the "Clearcuts Are Ugly" ad are two-page ads and the parts should be considered together. Have the students examine the one- and two-page ads (some of which will be from timber companies and others from environmental groups). Discuss who the ad is written for and what is the purpose or goal of the ad. Through a discussion

led by the teacher, the students will examine what makes the ad effective or ineffective communication. For example, what about the ad grabs the reader's interest? Is there a catchy phrase or slogan? What content did the ad writer select and why? Discussion should include examination of paragraph structure, sentence structure, word choice, and rhetorical strategies such as repetition, alliteration, analogy, etc.

■ **Once the students** have discussed the ads, tell them that they are now going to act like advertising writers and, like most real advertising writers, they will be part of an advertising agency.

■ **At this point**, divide the class into groups of 3-4 students each. Each group is a separate ad agency. Half of the groups should receive the assignment to design an ad for WFP (Handout 3-13) and half of the groups should receive the assignment to design an ad for FOF (Handout 3-14).

■ **Day Two**: Students will work in their small groups and write their ads. (Depending on the class's ability, the teacher may allow two days for writing the ad.)

■ **"Chris Peters,"** a WFP (or FOF) representative played by the teacher, should visit each group and answer questions the group may have about WFP (or FOF). The teacher should stay in role in these visits. During these visits to the groups, resist any attempts by groups to force you back into your teacher role.

■ **Day Three**: Each group presents its ad to the "Board of Directors." The Board of Directors should be played by students from groups writing the other ad. In other words, WFP ad writers roleplay the FOF Board of Directors, and FOF ad writers roleplay the WFP Board of Directors. Presentations should be limited to five minutes. Distribute two copies of Handout 3-15 to each Board Member and tell Board members to use this criteria when evaluating each ad. You may need to remind the groups what you mean by "rhetorical strategies."

■ **After all presentations** to one Board have been made, that Board should meet to decide which ad design it will use. It should summarize its reasons and explain what it found were the strengths and weaknesses of each ad design. Meetings to decide and summaries of strengths and weaknesses should be limited to ten minutes total.

■ **Day Four (T-Shirt Option)**: Have students return to their groups as ad agencies. Distribute t-shirt assignments (Handouts 3-16 and 3-17). Tell the groups that they have limited time, approximately 20 minutes, in which to create their t-shirt designs. Tell them that the Sierra Club turned the "I've Got a Good Lawyer" ad into a t-shirt with just those words and a picture of a spotted owl.

■ **Once the designs** are ready, have an advertising writer come in and look at the designs. He or she should tell the students what is and what is not effective about the designs they created. Ideally, the advertising writer should have already seen the best ads that were designed by the groups so that he or she can comment on them as well. If an advertising writer is not available, the students themselves can review the t-shirt designs and participate in a teacher-led discussion about what is and what is not effective about each of the designs.

Timber companies are cutting America's salmon harvest to shreds. Overlogging and related road building in America's ancient forests are contributing to the destruction of fish habitat in the eastern and western parts of Oregon and Washington. The damage now threatens the $1 billion Northwest fishing industry and its 60,000 jobs.

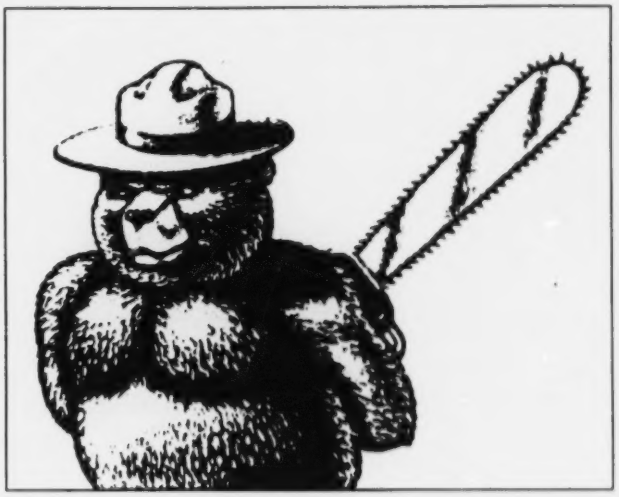
In eastern Oregon, eastern Washington and Idaho alone 76 types of salmon fishes are now at risk of extinction, according to the American Fisheries Society. Unless we act soon to protect the most significant habitat — the streams that flow through the last 10% of America's ancient forests — more fish and fishing jobs will disappear.

Most politicians say they want to save salmon. But some won't protect the streams in the ancient forests where many fish spawn, particularly those in eastern Oregon and eastern Washington. That's like using a bandaid to stop a severe hemorrhage—it won't work. It's time to protect fish and fishing jobs by preserving and restoring America's ancient forests.

Preserve Fishing Jobs By Protecting Ancient Forests

Ancient Forests Are America's Heritage

Paid for by Americans for the Ancient Forests and The Pacific Rivers Council



Bear Facts About Smokey and the Law

Some bad habits are hard to break. Years of mismanagement and illegal activities by our federal government have destroyed 90% of the rare ancient forests, and now some Northwest politicians and the timber industry want to suspend the very laws protecting the last 10%.

They've tried this ploy before — letting the government ignore current environmental laws when it sells rights to cut down America's ancient forests. Now they want to put government agencies above the law again, let the big timber companies cut down the last 10% of our ancient forests and take away our rights to stop them.

This time the politicians and the timber industry are also trying to disguise their plan, calling it names like "certainty" and "sufficiency." But it's nothing more than the same old "logging at any price" policy that has leveled the ancient forests, damaged fisheries and threatened 60,000 Northwest fishing jobs.

It's time for the government to obey the laws just like the rest of us. It's time for a change.

Breaking the Law is the Problem, Not the Solution.

Ancient Forests Are America's Heritage

Paid for by Americans for the Ancient Forests

I'VE GOT A GOOD LAWYER.

You know me. I'm a northern spotted owl. I live in what's left of the ancient forests of the Pacific Northwest. Sad to say, most of the trees have been cut from under me. There aren't many of us left.

Lately, however, I've been able to stop the worst of the logging by winning lawsuits. The timber industry says I'm after the jobs of loggers and millhands. That's not true. I just want to live in peace.

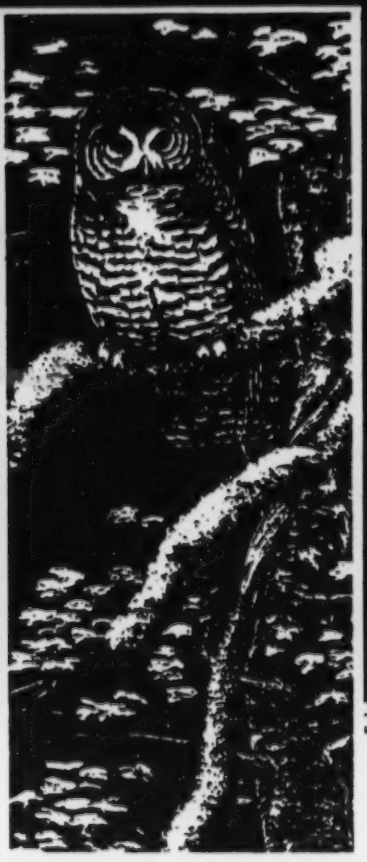


Illustration by Carl Dennis Buell

My lawyer is the Sierra Club Legal Defense Fund. That's the outfit that represents hundreds of grassroots environmental groups, native and minority communities, national groups—and otherwise voiceless critters like me. They're the best. Please help them help me save my home. I've got nowhere else to go.

For more information, write to the address below.

Sierra Club Legal Defense Fund

180 Montgomery Street, Suite 1400, San Francisco, CA 94104

WORKING FOR BALANCE

Second in a series about managing private forests today

You think clearcuts are ugly. We think clearcuts are ugly. Now where do we go from here?

We know how most people feel about the way clearcuts look.

So last year, we worked with state agencies and environmental groups to create regulations that limit the size of clearcuts for the first time.

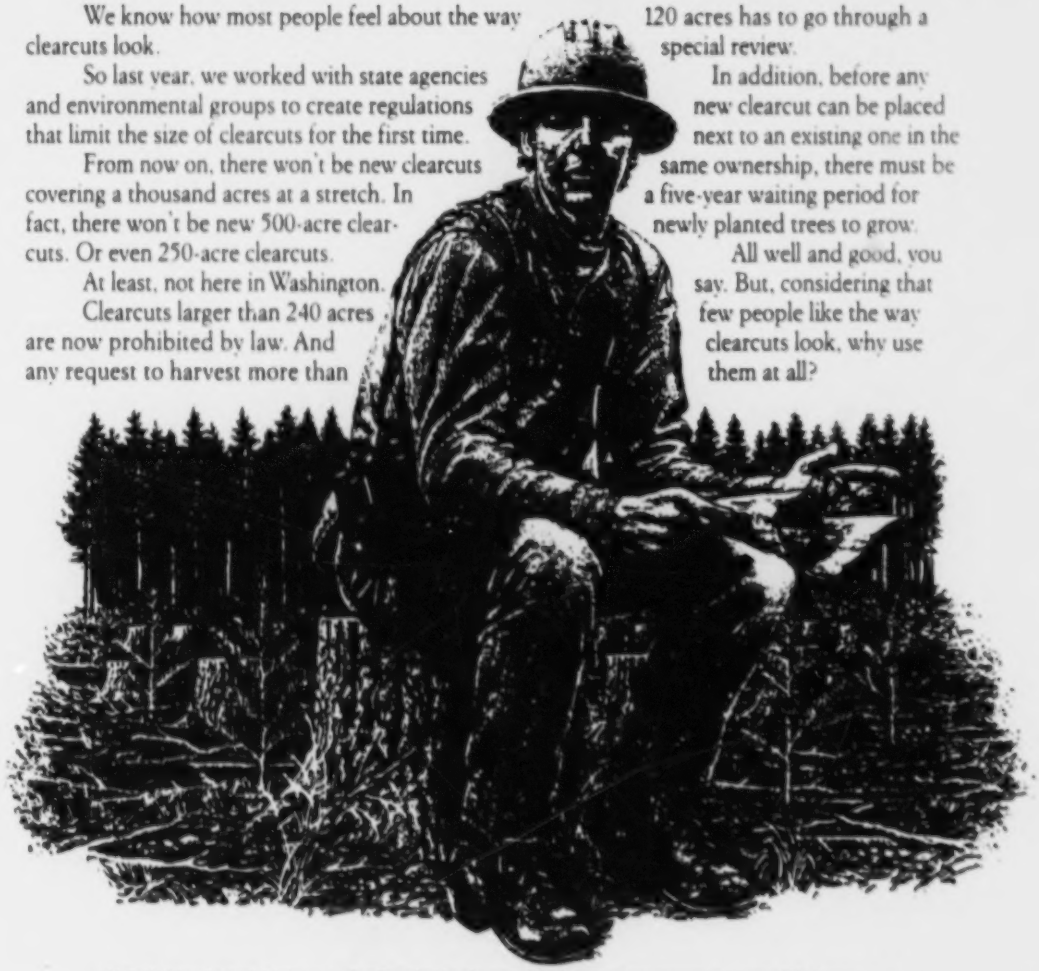
From now on, there won't be new clearcuts covering a thousand acres at a stretch. In fact, there won't be new 500-acre clearcuts. Or even 250-acre clearcuts.

At least, not here in Washington.

Clearcuts larger than 240 acres are now prohibited by law. And any request to harvest more than 120 acres has to go through a special review.

In addition, before any new clearcut can be placed next to an existing one in the same ownership, there must be a five-year waiting period for newly planted trees to grow.

All well and good, you say. But, considering that few people like the way clearcuts look, why use them at all?



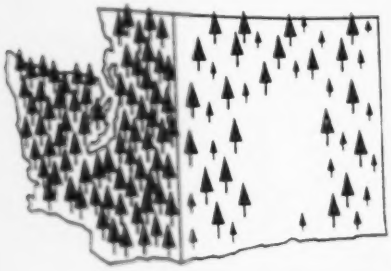
Nobody likes the look of clearcuts. But Douglas-fir, the naturally dominant tree species in western Washington, is a shade-intolerant species. So the open space created by a clearcut is the best way to ensure that young Douglas-fir trees grow well.

Two major reasons.

First, the obvious one. Clearcutting is the most efficient way to harvest trees. Which means, of course, that it's the most economical method for forest owners. But it also means that we can provide millions of people with wood and paper products at reasonable cost.

The second reason for clearcutting is actually related to growing trees. Douglas-fir is the naturally dominant tree species in western Washington. In order to grow well, it needs much more light than most other native trees. And the open space created by clearcutting or forest fire gives Douglas-fir the sunlight it needs to thrive.

We're the Washington Forest Protection Association. We're managing private forests so they work for all of us.



In relatively dry areas such as eastern Washington, logging is frequently done on a selective basis. These shelterwood cuts in pine forests typically leave up to a third of the trees to seed and shelter new trees.

In the wetter climate of western Washington, a clearcut is a more efficient and economical way to harvest trees. That's because trees grow more closely together, making it much more difficult to take individual trees out of a stand.

Under the new forest practice rules, watersheds throughout the state will be studied for the effects of clearcuts on erosion and siltation of streams. Clearcutting and road building will be limited wherever risks are high.

Douglas-fir is a highly desirable building material. It can be used in a number of different ways. And it's strong, lightweight, and relatively inexpensive. Right now, 75% of western Washington is forested, and about half of the forests are stands of Douglas-fir.

WASHINGTON FOREST PROTECTION ASSOCIATION

Founded 1908

Appleton Ruler Tree Farm · Arden Tree Farms, Inc. · Barker Tree Farm · Morris H. Bergman · Bloedel Timberlands Development, Inc. · Boise Cascade Corporation · W.A. Branch · Broughton Lumber Company · Joseph Buhaly · C & H Tree Farms · Cavenham Forest Industries · Centralia Mining Company · Champion International · Jim Creek Properties · Crown Pacific, Ltd. · Ralph DeMoisy Estate · Edward & Karen Duggan · Erehwon Tree Farm · Five Springs Tree Farm · Frank Tree Farm · The Fox Partnership · Green Crow · MRGC Company · W.D. Hagenstein · John Hancock Mutual Life Insurance Company · Fred Hart · High Point Tree Farm #2 · International Paper Company · ITT Rayonier Inc. · Dick Jacobs · Joe Kawamoto · Longview Fibre Company · Dr. Jurgen Manchot · Menasha Corporation · Merrill & Ring · Miller Land & Timber Company · Mountain Coal Company · Murray Pacific Corporation · James O'Donnell · Pacific Denkmann Company · Palmer Coking Coal Company · Plas Newydd Farm · Plum Creek Timber Company · Pope Resources · Port Blakely Tree Farms · Francis J. Powers, Jr. · Rayonier Timberlands Operating Co. · Scott Paper Company · Sheldon Properties · Simpson Timber Company · Richard Sterling · James Stewart · George Thompson · Sylvia Thorpe · Tietzing-Ki-Deming Tree Farm · Trillium Corporation · Merton Turk · Washington Timberlands Management, Inc. · Weyerhaeuser Company · Maurice Williamson

We're the Washington Forest Protection Association. Evergreen Plaza Bldg., Ste. 608, 711 Capitol Way, Olympia, WA 98501

WORKING FOR BALANCE

Fourth in a series about managing private forests today

We have at least two
And next century, we'll have mo

Not long ago, some people in our state government asked some good questions about Washington's timber supply.

The same kind of questions you might ask.

Like, how many trees do we really have? How many trees can we expect to have the rest of this century? How about next century?

They had good questions, but they didn't have good answers. So they commissioned a major study by the University of Washington.

The study was recently completed. And one of its conclusions was that given predicted market conditions, the timber supply in Washington's private forests should climb steadily from today until the year 2000. After that, the supply could increase by as much as another 20% by the year 2090.

How can the study project such a large number of trees after so many trees have already been harvested?

The answer is simple: Reforestation works. We plant several trees for every one we harvest. And the overwhelming majority of those young trees grow into mature trees.

To say it another way, we have some 4½ million people in Washington. And on private forestland alone, there are at least 500 trees for every one of us.

The point is, we have an abundance of trees. For us. For our children. For our children's children.

And as long as public policy doesn't further restrict harvesting on private land, Washington's private forests will continue to provide the majority of this state's wood and paper products for the next 100 years.

We're the Washington Forest Protection Association. We're managing private forests so they work for all of us.

*University of Washington Timber Supply Study, July 17, 1992

Washington's private forests contain at least 500 trees for every man, woman and child in the state. And a major study done by the University of Washington predicts that the overall number of trees on private land should actually increase throughout the next century.

Appleton Ridge T
Bratton · Brown
Creek Properties
The Free Parties
Farm #2 · Interna
& Ring · Miller
Coking Coal Co
Timberlands One
Towering KG Inv

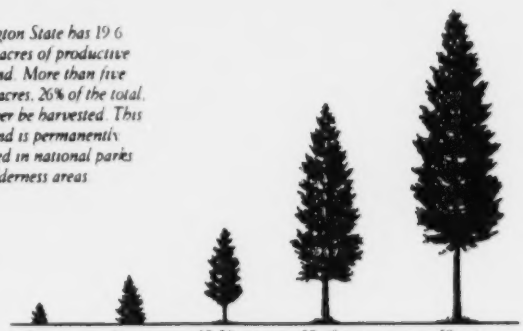
vo billion trees.
ıore than we have today.

Permanently Preserved Public Forests

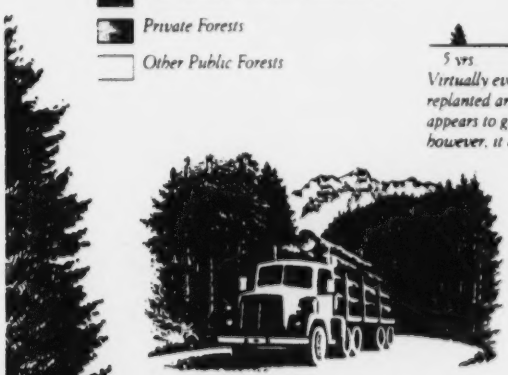
Private Forests

Other Public Forests

Washington State has 19.6 million acres of productive forestland. More than five million acres, 26% of the total, will never be harvested. This forestland is permanently preserved in national parks and wilderness areas.



Virtually every acre that's harvested is reforested. But it takes a while for a replanted area to look like it has trees growing. That's because Douglas-fir appears to grow fairly slowly when it's young. By the time it's 50 years old, however, it can be 140 feet tall and two feet in diameter.



Washington State has a greater number of native conifer trees than any other place of comparable size in the world. Right now, 75% of Western Washington is growing trees.

Because we choose the best seedlings to plant in the first place, and because of practices such as thinning and fertilization, trees from a managed forest typically grow from 20% to 40% faster than trees from an unmanaged forest. They're also more resistant to insects and disease.

WASHINGTON FOREST PROTECTION ASSOCIATION

Founded 1908

ton Ridge Tree Farm · Arden Tree Farms, Inc. · Barker Tree Farm · Morris H. Berman · Bloedel Timberlands Development, Inc. · Boise Cascade Corporation · W.A. n · Broughton Lumber Company · Joseph Buhaly · C & H Tree Farms · Cavenham Forest Industries · Centralia Mining Company · Champion International · Jim Properties · Crown Pacific, Ltd. · Ralph DeMoisy Estate · Edward & Karen Duggan · Erehwon Tree Farm · Five Springs Tree Farm · Frank Tree Farm · rer Partnership · Green Crow · MRGC Company · W.D. Hagenstein · John Hancock Mutual Life Insurance Company · Fred Hart · High Point Tree #2 · International Paper Company · ITT Rayonier Inc. · Dick Jacobs · Joe Kawamoto · Longview Fibre Company · Dr. Jurgen Manchot · Menasha Corporation · Merrill g · Miller Land & Timber Company · Mountain Coal Company · Murray Pacific Corporation · James O'Donnell · Pacific Denkmann Company · Palmer g Coal Company · Play Newvdd Farm · Plum Creek Timber Company · Pope Resources · Port Blakely Tree Farms · Francis I. Powers, Jr. · Rayonier rlands Operating Co. · Scott Paper Company · Sheldon Properties · Simpson Timber Company · Richard Sterling · James Stewart · George Thompson · Sylvia Thorpe · ng KG Deming Tree Farm · Trillium Corporation · Merton Turk · Washington Timberlands Management, Inc. · Weyerhaeuser Company · Maurice Williamson

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Design an Ad for WFP

You are the writing staff for an advertising agency. You have been recently hired to do a promotional campaign for a new client, a regional timber company called Western Forest Products (WFP).

WFP believes it is a community-minded corporation that has brought jobs and economic growth to your area. It feels that its good name has been hurt by radical environmentalists who wish to stop timber harvesting in old growth forests in order to save the spotted owl.

WFP wants to develop an ad campaign that will help repair its tarnished reputation and will persuade people that responsible timber harvesting, even in old growth forests, is a good thing.

Design a one-page ad that will capture readers' attention, convey a positive image for WFP, and promote WFP's position on the spotted owl controversy. In your design, you may either draw or describe any art work or photograph that would appear in the ad, but be sure that you write out exactly the words that would appear in the ad. Show how the art/photo and words should be laid out on the page.

If you have questions about WFP or this project, you can ask their representative, Chris Peters, when Peters is here for a meeting with our president. Oh, by the way, several other advertising agencies are competing against us for this account. As you know, we need the business, so do your best.

We will be presenting our ad design to the Board of Directors of WFP on _____. Select a spokesperson for your group who will present your ad to the Board. As a group, decide what your spokesperson should say about the ad's design and why WFP should pick it.

Design an Ad for FOF

You are the writing staff for an advertising agency. You have been recently hired to do a promotional campaign for a new client, Friends of the Forest (FOF), which is an environmental group that opposes harvesting old growth forests.

Unfortunately, FOF has received some bad publicity lately because three of its members were involved in a tree-spiking incident. Although FOF does not approve of such tactics, the media widely reported that the three were FOF members. FOF considers itself a responsible environmental protection group, and it wants to repair its tarnished reputation. It also wants to promote its position that old growth forests must be preserved.

Design a one-page ad that will capture readers' attention, convey a positive image for FOF, and promote FOF's position on the spotted owl controversy. In your design, you may either draw or describe any art work or photograph that would appear in the ad, but be sure that you write out exactly the words that would appear in the ad. Show how the art/photo and words should be laid out on the page.

If you have questions about FOF or this project, you can ask their representative, Chris Peters, when Peters is here for a meeting with our president. Oh, by the way, several other advertising agencies are competing against us for this account. As you know, we need the business, so do your best.

We will be presenting our ad design to the Board of Directors of FOF on _____. Select a spokesperson for your group who will present your ad to the Board. As a group, decide what your spokesperson should say about the ad's design and why FOF should pick it.

Board's Criteria for Selecting an Ad

Yes	No	
☐	☐	Does the ad help to reestablish WFP's (FOF's) good reputation?
☐	☐	Does the ad promote WFP's (FOF's) position on the old growth forest controversy?
☐	☐	Does the ad grab the reader's attention?
☐	☐	Does the ad use effective paragraph and sentence structure?
☐	☐	Does the ad use effective word choice?
☐	☐	Does the ad use rhetorical strategies effectively?

List which strategies were used.

1. _____

2. _____

3. _____

4. _____

5. _____

T-Shirt Design for WFP

Congratulations! Your ad campaign has been a big success and now WFP wants you to design some t-shirts that it can pass out at a conference for the timber industry that it is sponsoring next weekend. Once again, WFP's objectives are the same: It wants to create a positive image of the company and promote its position on the spotted owl controversy.

WFP is willing to look at up to four different designs for t-shirts. Obviously quality is more important than quantity, but the more designs they pick, the more we will be paid.

Art work is optional, but be sure the words on each t-shirt are laid out as they should appear on the t-shirt.

The conference is next weekend, so WFP wants to see those designs today!

T-Shirt Design for FOF

Congratulations! Your ad campaign has been a big success and now FOF wants you to design some t-shirts that it can pass out at a conference for environmental groups that it is sponsoring next weekend. Once again, FOF's objectives are the same: It wants to create a positive image of the organization and promote its position on the spotted owl controversy.

FOF is willing to look at up to four different designs for t-shirts. Obviously quality is more important than quantity, but the more designs they pick, the more we will be paid.

Art work is optional, but be sure the words on each t-shirt are laid out as they should appear on the t-shirt.

The conference is next weekend, so FOF wants to see those designs today!

Writing an Expository Essay

Sequence
This Language Arts unit can be used during or after the students have completed the Social Studies unit on the spotted owl controversy.

Objectives
- Students will have a heightened awareness of their readers and their readers' needs.
- Students will use a basic organizational structure for expository writing.
- Students will use revising techniques to improve their writing.
- Students will experience writing and revising a long paper in stages.
- Students will complete a long expository essay that is a clear explanation of a complex issue.

Materials
- Handout 3-18: The Assignment
- Handout 3-19: Guide to Revising

Time Estimate
Ten class periods.

Use of Outside Resource Persons
Elementary school teacher and class—preferably of third, fourth, or fifth graders.

Use of Small Groups
This unit uses small groups. See the introductory material to this curriculum for general directions on using small groups in language arts classes.

Use of Journal Writing
Journal writing can be used with this unit. See the introductory material to this curriculum for general directions on using journal writing in language arts classes and for the appropriate student handouts on journal writing.

Procedures
■ Before introducing this unit to your class, select an elementary class—preferably from grades 3, 4, or 5—who will serve as your students' readers for this writing project.

■ **Day One**: Tell your students that they are going to be writing about the spotted owl controversy for this class. Have your class draw up a list of questions they would like to ask to determine how much or how little their younger readers already know about the issue. If possible, arrange face-to-face meetings with the younger students so that your students can ask these questions. If face-to-face meetings are not possible, send the questions to the younger class and ask for a written response. Be prepared to find out that the younger students know little or nothing about the controversy or that what they do know is based on mistaken information.

■ **Pass out Handout 3-18** and read aloud with your class. Have students begin drafting the introduction. A draft of the introduction is due the next day. If your class has kept a journal, encourage students to re-read their earlier journal entries in preparation for writing the introduction.

■ **Day Two**: Meet in small groups (3-5 students) and have each student read the

rough draft of his or her introduction aloud. Allow the group time to make recommendations about how the introductions can be improved. If a group finds that a member has written a particularly good introduction, read that introduction to the entire class.

■ **Returning to the class** as a whole, briefly review what makes a forest an old growth forest. Have the students begin writing a rough draft of the second part of the paper, an explanation of an old growth forest. Rough draft of this part of the paper is due the next day.

■ **Day Three**: When the class convenes, have students write down any new questions they now have about what makes a forest an old growth forest. (Presumably, they may have uncovered something they did not know when they tried to write their explanation.) Collect the questions and read each one aloud. As a group, try to develop an answer to the question. The remainder of the class should be used as a writing lab. Students may need to incorporate the answers to the questions into their sections on the explanation of the old growth forest, or they may be ready to begin drafting the next section. Announce that drafts of parts 3 and 4 of the paper, the timber industry's and the environmental groups' points of view, will be due on Day Five.

■ **Day Four**: As a whole class, review the key points both the timber industry and the environmental groups make when discussing this issue. On the board, record each side's points in a separate list. For example:

Timber Industry	Environmental Groups
Lost jobs	Once a species is lost, it is gone forever
People are more important than animals	We don't know what else might be lost if we cut down all old growth forests (example: cancer medicine in yew)

Encourage students to make these lists fairly complete.

Before beginning to write, have students: 1) decide which points they will incorporate in their explanations, and 2) determine the order in which they think they will discuss the points. Rough drafts of the next two parts of the paper are due the next day. If the class has kept a journal, encourage students to review relevant journal entries they have written before writing these sections.

■ **Day Five**: Begin by asking the class to brainstorm all the possible solutions to the old growth forest controversy. After the brainstorming session, ask each student to write down on a piece of paper the three solutions that he or she thinks are most feasible. (If a student thinks fewer than three solutions are feasible, the student should write down only those solutions.) Call on several of the students and ask each which solutions he or she wrote down and why he or she believes those solutions are feasible. End the class by allowing students to begin writing their conclusions. A rough draft of the entire paper is due on Day 6. If the class has kept a journal,

remind students to review relevant journal entries they have written about solutions before writing the conclusion.

■ **Day Six**: Pair up students. Each student reads his or her partner's draft. Have students mark any word, sentence, or section that "seems rough." Together the pair should examine these "rough spots" and discuss possible changes using the "Guide to Revising" in Handout 3-19. Final drafts are due on Day 8.

■ **Day Seven**: If desired, this day can be used for further revising, editing, and proofreading and individual writing conferences with teacher.

■ **Day Eight**: Collect the students' papers. Three copies of the originals should be made to distribute to the younger readers.

■ **Day Nine**: Papers should be read and "evaluated" by younger readers. Each of the younger readers should be asked to select something he or she particularly liked about one of the three papers he or she reads. That feature of the paper is highlighted.

■ **Day Ten**: Arrange so that your class meets with younger readers. Have the younger readers identify what they particularly liked and highlighted about some of the papers. The younger readers can then ask the older writers any additional questions they have about the old growth forest controversy. At the end of this joint session, poll the younger readers about their opinions on the controversy.

Journal writing assignment: What was it like to be the "expert" writing about a topic for an uninformed reader?

Assignment

You have been asked to write an explanation of the old growth forest controversy for an elementary class that is studying this issue.

Now that you have studied the old growth forest controversy, prepare a five- to ten-page paper that will explain this controversy to young readers.

Make sure that your paper includes the following:

1. An introduction that explains the nature of the controversy.
2. A clear explanation of what an old growth forest is.
3. An explanation of the timber industry point of view.
4. An explanation of the environmental groups' point of view.
5. An explanation of possible solutions to the problem.
6. A conclusion that includes your prediction of what will happen.

Your paper will be read by three members of the younger class. Each will "evaluate" the paper using the following three criteria:

- How well they understood what you wrote.
- Whether they found your explanation interesting.
- Whether they noticed any errors in the writing.

Your rough draft of the introduction is due on _____.

The final draft of the entire paper is due on _____.

Guide To Revising

Yes	No	
☐	☐	Has the writer written for the assigned reader? (example: appropriate vocabulary for _____ grader)
☐	☐	Has the writer accomplished the assigned purpose? (*clear* explanation of old growth forest controversy)
☐	☐	Has the writer used the required organization? (six parts in assignment)
☐	☐	Within each part, has the writer developed a clear organization?
☐	☐	Has the writer included the key points in each part? If not, what was omitted or what needs further development?
☐	☐	Has the writer used effective sentence structure? Examples: _____ _____ _____
☐	☐	Has the writer used effective word choice? Examples: _____ _____ _____

Student Whose Paper was Revised _____

Revising Partner _____

"Moss-Gathering" by Theodore Roethke

and

"The Rigger" by Charles Oluf Olsen

Sequence

This Language Arts lesson should be done during or after students have completed the Social Studies Unit on old growth forests. This lesson also presumes that the students are familiar with imagery in poetry.

Objectives

- Students will be exposed to the poetry of a famous Pacific Northwest poet, Theodore Roethke.
- Students will review the use of imagery in poetry.
- Students will compare the themes in the poetry to the old growth forest controversy.
- Students will respond to the poetry in writing.
- Students will compare the literary value of two poems.

Materials

- Handout 3-20: Teacher's Notes on Theodore Roethke
- Handout 3-21: "Moss-Gathering"
- Handout 3-22: "The Rigger"

Vocabulary

- **Desecration**—The abuse of the sacred
- **Rigger**—Timber worker who climbs to the top of the tree and attaches a pulley wheel to tree trunk, runs one end of cable around wheel and down the tree trunk
- **Yarder**—Tree-cable-pulley device
- **Drum**—Big spool device

Use of Journal Writing

Journal writing can be used with this unit. See the introductory material to this curriculum for general directions on using journal writing in language arts classes and for the appropriate student handouts on journal writing.

Procedures (Part I: "Moss-Gathering")

■ **Begin by asking** students what are some of their favorite activities in the woods. They will probably offer a variety of activities including hunting, fishing, camping, and hiking. Ask them what it is they enjoy about these activities and whether it is important that they are "out in nature." Ask them to articulate why it is enjoyable to be out in nature. Ask them if they have ever felt that they somehow violated nature by doing some of these activities.

Did they feel as though they had interfered with nature, or did they feel they were one more part of the whole?

■ **Ask them to brainstorm** which activities they feel are (or at least may be) a violation of nature. Record their answers on the board.

■ **Introduce the Northwest poet** Theodore Roethke (see Handout 3-20).

Be sure to tell students about Roethke's childhood experiences around his father's florist business. Tell the students that the poem you will be reading is about an outdoor activity that Roethke has mixed feelings about. Point out that the poem does not rhyme but that it gets its poetic effect primarily from imagery.

■ **Read the poem** "Moss-Gathering" by Theodore Roethke aloud to your students. Students should follow along on photocopies of Handout 3-21.

■ **Have the students** read the poem again, silently, and this time ask them to circle or underline images in the poem that they liked or thought were effective. Have the students say which images they like or think effective. Point out that the images in the first five lines make the moss seem attractive in an earthy way. Point out that the images are both visual and textual. Spend some time discussing the image in the second to last line "by pulling off flesh from the living planet." Why does the poet personify the planet? What would happen if you pulled flesh off a human? Why does the poet want to compare the planet with a human?

■ **Ask the students** if there are any similarities between moss-gathering and cutting trees? Would Roethke consider cutting old growth forests a "desecration"? Is Roethke likely to side with the timber industry or the environmentalists? How do you know?

■ **Read the poem** aloud again (a good student reader may be preferable to having the teacher read again). Depending on the previous discussion and the ability of the students, you may want to conclude the reading of the poem in any one of the following ways:

- Simply say, let's hear the poem again and have it read aloud.
- Ask the students if they agree with Roethke that moss-gathering is a desecration.
- Ask students to pay close attention to the order of the words. Which choices strike them as interesting and effective? Does it change the poem to reorder the last line to read "As if I had committed a desecration against the whole scheme of life"?

■ **Assign one** of the following writing options, or allow the students to pick from the list of options.

- Look again at the list of activities that may be a violation of nature. Select one, and using Roethke's pattern, write a poem. The first part of the poem should have many "positive" images that make the activity and/or nature seem attractive. The second part of the poem should describe the writer's mixed feelings about the activity. End your poem with your conclusion about whether the activity was a part of nature or a violation of nature.
- Write a letter to Theodore Roethke telling him your reaction to the poem "Moss-Gathering." Be sure to include whether you agree or disagree with his conclusion and why.
- Write a journal entry about an outdoor activity that you participate in that some might consider a violation of nature. Do you agree or disagree? Why?

- *(This option can be done if your students have already read "The Rigger" by Charles Oluf Olsen.)* Write a one- to two-page discussion of the two poems that ends by saying which poem you think is the better of the two and why. Consider each poem's message and imagery in determining which is the better poem. You may also want to discuss whether the fact that one poem rhymes and the other doesn't makes one poem better than the other.

> **Note**: Depending on your students' ability, you may want to recommend the following organization for their essay.
>
> *I. Introduction*
>
> *II. Discussion of the first poem, including message and imagery*
>
> *III. Discussion of the second poem, including message and imagery*
>
> *IV. Conclusion that states which is the better poem and why.*

■ **Write a journal entry** that discusses whether or not "Moss-Gathering" is relevant to the old growth forest controversy.

Procedures (Part II: "The Rigger")

■ **Begin by asking** students what they think the life of a timber worker is like. What parts of the job do they think are exciting and glamorous? What parts of the job seem unappealing? Do they think it would be "great to be outdoors" or would it be cold, rainy, and miserable most of the time?

■ Before reading the poem "The Rigger" define the terms "rigger," "yarder," and "drum."

■ Distribute Handout 3-22 and read "The Rigger" aloud. Ask if there are any other words that are unfamiliar to the students. Take time to define these words. (The teacher should define them only if other members of the class can't define the words and the class cannot use the context to determine the word's meaning.)

■ **Ask the students** to read the poem again, silently, this time underlining or circling any images that they liked or thought were effective. Have the students say which images they like or think effective. What is the overall effect of these images? What do they focus the reader's attention on? The man? The trees? The rain? Do they make the timber worker's job sound miserable, or do they make the timber worker seem noble or heroic because he can withstand such adverse conditions? What is the poet trying to convey with the last image "where the vision ends and the cloud bank clings"? Is the rhyme in the poem effective? Why or why not?

■ **Ask what the poet** was trying to accomplish by writing this poem? Does the poem have a message? If the class seems to jump too quickly to conclusions about the poem's message, brainstorm the possibilities. Are we supposed to sympathize with the timber worker? Are we supposed to be discouraged from getting this type of job? Are we supposed to respect the timber worker? Are we supposed to understand something better? Which of the images in the poem support these different possible messages?

■ **Ask the students** whether they think Olsen is likely to side with the timber industry or the environmentalists in the old growth forest controversy.

■ **Depending on the previous** discussion and the ability of the students, you may want to conclude the reading of the poem in any one of the following ways:

- Simply say, let's hear the poem again and have it read aloud (a good student reader may be preferable to having the teacher read again).
- Ask students to pay close attention to the order of the words. Which choices strike them as interesting and effective? Point out that the first stanza starts with the rigger's shoes, slicker, and pants and ends with a vision of the whole man in the woods.
- Discuss what the poet's view is of man's relationship to nature.

■ **Ask students** to compare "Moss Gathering" and "The Rigger." Which do they think is the better poem and why?

■ **Assign one** of the following writing options, or allow the students to pick their own assignment from the list of options.

- Write a letter to Charles Oluf Olsen telling him your reaction to the poem "The Rigger." Be sure to include what you think his message was and whether or not he succeeded in conveying this message.
- Write a journal entry about rain in the Northwest. Be sure to refer to the images of rain in "The Rigger." What are your own images of rain in the Northwest?
- Write a journal entry about your impressions of a logger's life. Have these impressions changed after reading "The Rigger"?
- *(This option can be selected if your students have already read "Moss-Gathering" by Theodore Roethke.)* Write a one- to two-page discussion of the two poems that ends by saying which poem you think is the better of the two and why. Consider each poem's message and imagery in determining which is the better poem. You may also want to discuss whether the fact that one poem rhymes and the other doesn't makes one poem better than the other.

Note: Depending on your students' ability, you may want to recommend the following organization for their essay.

I. Introduction

II. Discussion of the first poem, including message and imagery

III. Discussion of the second poem, including message and imagery

IV. Conclusion that states which is the better poem and why.

Old Growth Forest — Partial Bibliography

Andrews, Ralph W., *This Was Logging*, West Chester, PA: Schiffer Publishing Ltd., 1984.

Andrews, Ralph W., *Timber: Toil and Trouble in the Big Woods*, West Chester, PA: Schiffer Publishing Ltd., 1984.

Dietrich, William, *The Final Forest*, New York: Simon & Schuster, 1992.

Dolan, Edward F., *The American Wilderness and Its Future: Conservation Versus Use*, New York: Franklin Watts, 1992. Chapters 7 and 8 are excellent background for the old growth forest controversy.

Flicken, Robert E., *The Forested Land: A History of Lumbering in Western Washington*, Seattle, WA: University of Washington Press, 1987.

Heinrich, *One Man's Owl*. This book is the story of how the author came to know and adopt a great horned owl. The owl's development is chronicled in journal entries written over three summers in the Maine woods.

Norse, Elliott A., *Ancient Forest of the Pacific Northwest*, Washington, D.C.: The Wilderness Society, Island Press, 1990.

Pellowski, Michael J., *My Father, The Enemy*, Hollywood Paperbacks, 1992. This book is #8 in the Riverdale High series. It features the comic book characters of Archie, Jughead, and Veronica in a junior novel. Veronica's father's company wants to cut down an old growth forest and build an industrial park on the site. The teens become politically active and work together to bring about a compromise.

Siy, Alexandra, *Ancient Forests*, New York: Dillon Press, 1991. An easily accessible explanation of what is an old growth forest. Large type and simple vocabulary make it a good choice for fundamental readers. Beautiful illustrations.

Videotapes

"War of the Woods," 1-hour videotape available from KIRO Productions, Seattle. Contact Ben Saboonchian, producer, 206-728-8236.

"Rage Over Trees" PBS 1990. (May be available from public library.)

Teacher's Notes on Theodore Roethke

- Born 1908 in Saginaw, Michigan
- Died 1963 of a heart attack at the age of 55
- Grew up around his father's florist business and greenhouses
- His first book of poems, *Open House* (1941), incorporated many of his early experiences in his father's greenhouses
- *Lost Son and Other Poems* appeared in 1948
- Received the Pulitzer Prize in 1954 for *The Waking: Poems 1933-1953*
- Words for the Wind won the National Book Award in 1959
- Won the National Book Award posthumously for *The Far Field*

MOSS GATHERING

To loosen with all ten fingers held wide and limber
And lift up a patch, dark-green, the kind for lining cemetery baskets,
Thick and cushiony, like an old-fashioned doormat,
The crumbling small hollow sticks on the underside mixed with roots,
And wintergreen berries and leaves still stuck to the top,—
That was moss-gathering.
But something always went out of me when I dug loose those carpets
Of green, or plunged to my elbows in the spongy yellowish moss of
the marshes:
And afterwards I always felt mean, jogging back over the logging
road,
As if I had broken the natural order of things in that swampland;
Disturbed some rhythm, old and of vast importance,
By pulling off flesh from the living planet;
As if I had committed, against the whole scheme of life, a desecration.

THEODORE ROETHKE

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The Rigger

By Charles Oluf Olsen

With steel-caulked shoes
That bite and grip,
With their laces hid
So they cannot trip;
With slicker short, for the sake of ease,
And tin pants stagged, close to the knees,
He takes the trail among the trees.

The rain comes down
With a sidelong sweep;
The branches softly sway and weep,
And make a pool where the trail is deep.
He casts a vigilant glance on high–
Overhead–where the fir-tops sigh;
The water pours from his glazed hat brim
As he looks aloft from under the rim.

He leaps a puddle and swears a bit,
At the wet and the wind
And the chill of it;
Rivulets trickle and flow and leap,
And cascade down
Where the ground is steep;
He wades through mud where the yarder stands,
And climbs to the boiler
To warm his hands;
He grabs his gloves, takes a chew of snoose,
And joins the crew.

That by threes and twos
Plod out to their work through the muck and ooze.

The yarder-drums stir,
And the cables glide
Up through the high-lead and down beside;
Liquid, enveloping, yellow-brown mud,
Clings to them, covers them,
Drains in a flood
From their thread-like lengths,
As they tighten and slack
Over the road to the woods and back;
From spar-pole blocks
Comes a steady rain
Of spattering slush, as they swing and strain.

The loaders stand knee-deep
In debris and mire,
Over a sodden, smoke-blanketed fire
That sulks and sputters,
And will not burn.

The chaser sits hunched, awaiting the turn;
All his garments are slushy,
And down
From his paraffined pants
Stream small rivers of brown;
Where the sticky clay stain
From choker and chain
Dissolves in the wetness and colors the rain.

Incessant–depressing–benumbing and chill,
Drizzle and splash,
Over yard, over fill–
Above and beyond–to the end of things,
Where the vision ends
And the cloud bank clings.

Charles Oluf Olsen. From *Heroes of the Western Woods*, R. Andrews, ed., E.P. Dutton & Company, 1966.

Word Search

Sequence

The word search for the Environmental Law unit can be done at any time in the unit after the vocabulary for that unit has been established.

Objectives

- Students will review vocabulary for Environmental Law.
- Students will experience some reinforcement in the correct spelling of the vocabulary words for Environmental Law.

Materials

- Handout 3-23: Word Search for Environmental Law
- Handout 3-24: Answer for Word Search for Environmental Law

Procedures

■ **Distribute the Word Search**, Handout 3-23, whenever there is five to ten minutes remaining in the class period and you have already completed the rest of the lesson for that day.

■ **Post the answer**, Handout 3-24, to the Word Search the following day, or photocopy the answer handout and distribute.

W	T	Q	L
X	**O**	S	M
E	Z	**R**	B
S	D	V	**D**

Word Search

W	T	Q	L
X	**O**	S	M
E	Z	**R**	B
S	D	V	**D**

Find the following words that concern old growth forests:

clearcut	**decompose**	**endangered**
loggers	**lumber**	**taxol**
snag	**yew**	**spotted**
owl	**predator**	**spiking**
trees	**forest**	**prey**

D	E	R	E	G	N	A	D	N	E
T	E	O	S	P	I	K	I	N	G
R	Y	C	D	E	T	T	O	P	S
E	G	L	O	G	G	E	R	S	I
E	U	E	D	M	Y	E	R	P	U
S	N	A	G	S	P	E	Y	I	S
G	I	R	T	A	X	O	L	E	O
O	F	C	F	O	R	E	S	T	W
R	L	U	M	B	E	R	P	E	L
R	O	T	A	D	E	R	P	J	S

Answer to Word Search

W	T	Q	L
X	**O**	S	M
E	Z	**R**	B
S	D	V	**D**

D	E	R	E	G	N	A	D	N	E
T	E	O	S	P	I	K	I	N	G
R	Y	C	D	E	T	T	O	P	S
E	G	L	O	G	G	E	R	S	I
E	U	E	D	M	Y	E	R	P	U
S	N	A	G	S	P	E	Y	I	S
G	I	R	T	A	X	O	L	E	O
O	F	C	F	O	R	E	S	T	W
R	L	U	M	B	E	R	P	E	L
R	O	T	A	D	E	R	P	J	S

Freedom of Speech

Description of Unit

These social studies lessons explore the nature of free speech in American society. Students examine the conceptual underpinnings of this right. Students have opportunities to express their viewpoints on difficult applications of free speech, including flag-burning and hate speech.

The language arts lessons further students' understanding of persuasive writing through editorials. They read a variety of editorials from selected cities that appeared at the same time as the Supreme Court's decision on flag-burning, discussed in the social studies section. Students learn to write persuasively through writing their own editorials on flag-burning.

Social Studies Objectives

As a result of this lesson, students will be better able to:

- Identify freedom of speech protected by the U.S. Constitution and by the Washington State Constitution.
- Define what is included in "freedom of speech."
- Describe the limits on free speech.
- List the values promoted by protecting free speech in society.
- Describe the different application of free speech rights to students in schools and to citizens in general society.
- Identify selected current conflicts regarding free speech.
- Cite arguments for and against protecting the right to burn an American flag in protest of political action.
- Identify the high level of discomfort that sometimes accompanies protecting free speech.
- Feel that it is important that unpopular viewpoints be expressed.
- Identify the effects of hate speech on a variety of individuals and groups.
- List possible actions to take when hate speech occurs in public high schools.

Materials

- Handout 4-1: The Value of Free Speech
- Handout 4-2: Free Speech Cases
- Handout 4-3: Flag Burning: An Unmarked Opinion Case Study
- Handout 4-4: Problems at Fillmore High School

Time Estimate

The social studies lessons will take from 4 to 6 days if all are done. Individual lessons may take just 1 to 2 days.

Use of Outside Resource Persons

- Law enforcement and prosecutors may describe how the law on obscenity is applied.
- ACLU speakers may explain their views on the First Amendment. A debate between a prosecutor and an ACLU lawyer would be excellent.
- Former members of hate groups may speak on their experiences.

Vocabulary

Symbolic speech—Nonverbal expression of an opinion about a subject, e.g., wearing a red ribbon to show support for AIDS victims.

Introduction

Procedures

■ **Write** on the board:

"Every person may freely speak, write or publish on all subjects, being responsible for the abuse of that right."

"Congress shall make no law ... abridging the freedom of speech ...."

■ **Ask students** which one comes from the U.S. Constitution and which one is from the Washington State Constitution. Ask them how they can tell.

Answer: The first listed is Article 1, Section 5 of the Washington Constitution and the second the First Amendment to the U.S. Constitution, part of the Bill of Rights. The second one refers to Congress, and helps to identify it as the U.S. Constitution. In order for the First Amendment's freedom of speech to apply to states, the U.S. Supreme Court had to incorporate this right through the 14th amendment.

The State Constitutional right was modeled on the free speech right of California's State Constitution of 1879, and later Arizona modeled its state constitution right of free speech on Washington's.

Several decisions of the Washington Supreme Court have made it clear that Washington's free speech right gives individuals more protection than the federal free speech right. For instance, the federal law permits "prior restraint" under certain circumstances, while the state right absolutely bans prior restraint of constitutionally protected speech. Prior restraint means the ability of the government to stop communication before it occurs, in other words, censorship.

The State free speech right is a "preferred right" which means that when it conflicts with another right, it will be more important.

Today, the federal free speech rights apply when there is "state action," and not when there is only private action. This is why students attending private schools do not have any free speech rights protected by the U.S. Constitution. However, students in public schools do have these rights.

■ **Ask students** what examples of freedom of speech they can think of in school.

Students may suggest expressing an opinion in school; writing an article for the school newspaper; wearing some symbol in schools, such as gang clothing, arm band, political button; demonstrating against a

school policy; teachers' expressing a viewpoint about school administration or others; school board censorship of certain books.

■ **Explain that** whenever a public school puts a restriction on a student by a rule or by a practice that affects the students' speech, a first amendment right and a Washington constitutional right are involved. Whether or not the particular restriction will be lawful depends upon how a court resolves the issue.

So, for example, a student wishes to put an anti-abortion (or political) bumper sticker on the outside of the student's school locker, but the school has a policy that nothing may be put on the outside of school lockers. The school by its regulation is restricting the free speech of students. Does the school have the right to make this restriction?

To resolve this dispute, a court will apply some legal standard or rule. What this lesson will do is examine the rules that a court would use to decide these freedom of speech cases concerning students in public school and citizens in outside society.

■ **Ask students** what is meant by speech.

Answer: The communication of thoughts and ideas, including the right to receive information.

■ **Ask students** the various ways that speech is communicated.

Writing, talking, electronic transmission (including computer, video, radio, and television), symbolic acts, art, and music (records, tapes, compact discs, live performances).

Explain further that the right to free speech is interpreted by the courts. The highest court in the United States is the U.S. Supreme Court, located in Washington DC.

■ **Pass out Handout 4-1**, which is a description of the role of the right to free speech in America society. The Supreme Court wrote this in 1949 in *Terminiello v. Chicago*, 337 U.S. 1 (1949) and refers to this explanation even in the decisions the Supreme Court makes today.

■ **Have students** answer the questions that follow. Students may be assigned to small groups and given selected questions to answer.

■ **Classroom discussion** should include these points:

Answer to questions in Handout 4-1:

A. **In the opinion of the U.S. Supreme Court, what makes democracy work?**

Free discussion of ideas.

B. **According to the Supreme Court, how does free speech make the United States different from totalitarian governments?**

Free speech makes the government responsive to the people

C. **Are there any limits on freedom of speech? If so, what are they?**

Free speech is limited. A clear and present danger of a substantive evil will justify censorship or punishment for speech.

D. **Do speakers have the right to speak when their speech annoys other people?**

Yes.

E. **What does the Supreme Court say is the result of not allowing free discussion?**

The Supreme Court says that standardization of ideas would result.

F. **Have you ever disagreed with someone's use of their right to free speech? Describe your experience.**

Students will express their opinions.

G. **What are the benefits of free speech?**

Possible answers include:

- To hold government accountable for its actions.
- To get to the truth, individuals must be exposed to a wide variety of ideas.
- To protect and advance minority viewpoints that are necessary for society's pluralism.
- To promote better decision-making by the voters.
- To provide for self-development of the individual, including creative expression.
- To provide release for citizens' negative reactions so that citizens do not use violence.
- To help promote democracy.

H. **What are the problems with allowing free speech?**

Possible problems include:

- Lack of discipline and order.
- Inability to promote decency.
- Inability to prevent violence.
- Inability to control those in the population who are immature and irresponsible.
- Inability to protect individuals who are the subjects of hate speech.
- Inability to stop people who anger and offend others.

I. **Should these same values apply to public high schools or are public high schools so different from general society that these values should not apply?**

Arguments for application of free speech values to public high schools:

- Is part of educational skills development.
- Works as a safety valve to release students' tension.
- Promotes the exchange of ideas that is the essence of education.
- Prepares students to be educated citizens in society.
- Promotes tolerance of ideas for the pluralistic society in public schools.

Arguments against application of free speech values to public high schools:

- Need for discipline in schools.
- Promotes decency.
- Prevents violence.

- Controls an immature population.
- Prevents disruption of the learning process.
- Students are a captive audience.
- Not the schools' function.

J. **Some criticize Americans, saying they have gone too far in permitting freedom of speech. Do you agree? Why or why not?**

This calls for personal opinions.

K. **What responsibilities do people have regarding freedom of speech?**

People have the duty not to endanger others through their speech. People have the obligation to allow the same right of free speech to others. Some may argue that free speech also imposes responsibilities to be informed about issues, to participate in government, and to tolerate viewpoints that differ from their own.

■ **Explain to students** that because of certain dangers presented by free speech, not all speech is allowed. Ask students if they can think of examples where speech should not be protected by the Constitution.

Students may suggest crying "Fire!" in a crowded theater, saying such personally insulting words to another person that the person fights back, saying words that hurt another person in his or her reputation, being obscene, advertising false information, urging others to break the law now, demonstrating in a way that traffic is blocked for a long time. These forms of speech may constitutionally be limited.

Students may also suggest suppressing unpopular ideas or other constitutionally protected forms of speech. The following outline of the law will demonstrate how speech is presently protected by the Constitution as interpreted by the Courts. The U.S. Supreme Court has given courts a series of rules, called "tests," to use when they are asked to decide whether a particular expression of speech should be protected or not.

■ **Lecture and write** on the board.

The Supreme Court has ruled that the First Amendment allows the federal and state government to limit and regulate speech by:

1. Putting reasonable **time, place, and manner** restrictions on speech. For example, by restricting large demonstrations near where people live to certain times of the day. This type of limit cannot be related to the content of the speech.
2. **Providing extremely little protection** to certain types of speech:
   a. **Obscenity**. The Supreme Court has had a difficult time writing a workable rule to define obscenity. Material is obscene if taken as a whole by an average person applying contemporary community standards it appeals to a prurient (lewd) interest in sex; portrays sexual conduct in a patently offensive way; and lacks serious literary, artistic, political or scientific value. Access by minors to sexually oriented materials can be regulated more than it can be for adults.
   b. **Fighting words**. These are expressions that have little social value, are directed as a personal insult in a one-to-one encounter, and are

likely to cause an immediate violent reaction.

c. **Defamation**. This is false written or spoken words that damage a person's reputation.

d. **Advocacy of illegal action**. This speech urges people to act immediately to break the law and must be likely to produce such illegal behavior.

3. Providing **commercial speech** with *more* protection that the types of speech described above that get practically no protection and *less* protection than other forms of speech. All forms of advertising are commercial speech and the states may regulate and sometimes ban it. This is why false advertising can be regulated.

4. Restricting speech because in occurs in **certain public places**, like outside jails, military bases and utility substations, that have not traditionally been open to the public.

5. **Public schools** get special treatment. Speech by high school students can be prohibited altogether if it materially and substantially interferes with school activities or with the rights of other students or teachers, or if the school administration can demonstrate reasonable cause to believe that the expression would cause material and substantial interference.

■ **Distribute Handout 4-2** and ask students to decide whether the speech described is protected or unprotected.

Answers to Handout 4-2:

A. **At 6 a.m. before people go to work, Van Thu drives a truck with a loudspeaker in an area where people live, telling how poorly refugees are treated in this country.**

Protected. The speech itself is protected, but the government may regulate the time, place, and manner of speech. Van Thu has the right to tell his opinion on refugees, but his speech may be limited to downtown areas or to residential areas at a later time. The loudness of his speaker system may also be regulated.

B. **A sixteen-year-old daughter mouths off to her mother.**

Unprotected, since this is private action and does not involve the federal or state government.

C. **Joe publishes a magazine called *Young Love*. The magazine contains very clear photos of children aged 8 to 12 performing various sex acts.**

Unprotected, since this is obscene.

D. **Tom, Joan's supervisor, fires her for being continually late for work. To get even, Joan tells her co-workers that he fired her because she would not date him.**

Unprotected, because this is defamation. Students may ask whether or not this is private activity not regulated by the First Amendment. The government is involved because Tom would have the right to use the courts (part of the government) to sue Joan for her false statements. Enforcement of defamation through the courts makes it a government activity.

E. **The Neo-Nazi Youth Group planned a parade through the streets of Skokie, Illinois, so that they could advocate the extermination of Jewish people. Most of the people of Skokie are Jewish men and women who were imprisoned in concentration camps in Germany during World War II by the Nazi government.**

Protected. The government may limit the time, place, and manner of the speech. If the Nazi group advocated immediate harm to Jews and people were responding in a way to harm them, then this would be unprotected speech—incitement to unlawful activity.

F. **Fat Be Gone Company advertises that its nutrition system will result in a weight loss of five pounds per week and that none of this weight will be gained back. In reality, persons on this weight loss program lose from one to two pounds per week and most regain that weight.**

Unprotected, since states may ban false advertising as part of commercial speech.

G. **Public high school students write an underground newspaper on their own time, with their own resources and distribute the paper at a class picnic. The newspaper has the results of an opinion poll about each teacher. Some of the articles are very critical of the teachers.**

Protected. Newspapers produced away from school with students' resources and on student time are given protection of the first amendment. (However, if any of the articles contain false information that damage the teacher's reputation, the speech is unprotected defamation.)

Student newspapers that are sponsored by the school and written with school resources and support may generally be controlled by the school administration.

H. **Migrant workers want to demonstrate in support of new laws that require safer farm machinery.**

Migrant workers have the right to free speech. They may make a demonstration so long as it does not block streets or roads and is peaceable.

I. **A company sends out postcards telling people they have won a new television. To collect their television, they must send the company $50 for postage. When they send in their money, they do not receive a prize.**

This type of speech is known as "commercial speech." The government has the legal authority to regulate the speech. The company can be penalized for false advertising.

J. **Mary Beth and John Tinker each wear an armband to high school showing their disagreement with the American War in Vietnam.**

Mary Beth and John have the right to state their opinion, even if it is unsettling to others. Wearing an armband is symbolic speech. This will be permitted unless this causes a substantial disruption of the educational process. For example, the students could be banned from wearing the armbands if fights broke out in the hall, or

class after class could not go forward because of students' disagreement over the armbands' message.

Flag-Burning

Procedures

■ **Introduce the topic** of flag-burning. (This lesson was adapted from *Street Law*, 4th ed., West Publishing Co., 1990.) Tell students that the subject usually engenders a lot of emotional reaction and ask students to be tolerant of the view of others.

■ **Have students read aloud** the facts in the case study in Handout 4-3. Once students have understood the facts, have them decide which opinion he or she personally agrees with. Regroup the students based on their opinion. In the event that no one or very few agree with one opinion, divide the class in half and assign one half to argue Opinion 1 and one half to argue Opinion 2.

■ **Divide students** into groups of up to five persons. (This means that there may be more than one group supporting Opinion 1 and Opinion 2.)

■ **Students should identify** all the arguments from the opinion that support their position. Then have students add any opinions from the group that are not included in the opinion. When they have gotten out all the arguments, have them rank each argument from strongest to weakest.

■ **Debrief the groups** by taking one argument from a group that supports Opinion 1, and then take an argument from a group that supports Opinion 2. Continue getting out all the arguments until they are completely finished. Make sure that you ask every group to give answers. Do not take all the arguments of one group and leave other groups with nothing to say.

■ **While you are debriefing** the groups, make a grid on the board and write a summary word for the argument that is being made.

■ **After discussing the case**, you should inform students that Opinion 1 is the decision of the majority of the Supreme Court's nine judges. Opinion 2 is the decision of the Supreme Court judges who dissented.

■ **Tell students** that this decision was very controversial when it was announced in 1989. In 1990, the Supreme Court again threw out a Congressional statute that tried to make flag-burning a crime.

■ **Conduct the editorial lessons** in the language arts section on flag-burning at this point.

Hate Speech

Procedures

■ **Inform students** that they are now going to examine "hate speech" by exploring some recent problems of Fillmore High School.

■ **Pass out Handout 4-4** and have students read through the facts. Tell students that Fillmore High School is not a real school, but the events described reflect actual incidents that have been occurred in high schools in Washington State.

■ **Have students work** in pairs to answer the questions on Handout 4-4.

■ **Have students report back** from their small groups for a large class discussion of the issues.

Answers to Handout 4-4

> **Note to teachers**: Examples of effects are listed for each topic. However, the effects listed are not intended to be comprehensive.

A. **Discuss what effects the problems of Fillmore High School have on:**

Students. Hateful speech seriously injures students who are the direct targets and also those who are members of the group vilified. Students may feel less safe in school, this may interfere with studying and the students' success in school. It may have lifetime effects on students' self-esteem and life goals.

Teachers. Teachers may be demoralized to be teaching in such a school, their effectiveness as teachers may diminish.

Administration. Administration will be faced with more disciplinary problems, a host of angry and frightened parents, bad press. They may lose their jobs if unable to turn things around.

Parents. Parents may withdraw their children from school, they may sue the school for failure to provide a safe environment. Other parents may defend their children's acts of bigotry and fight the school.

The Community. The community may very well be embarrassed to be known as a place of intolerance. It may galvanize the community to become involved.

The School. School spirit will be demoralized, which affects sports, extracurricular activities, and motivation of students to achieve.

Other Groups and Individuals. Criminal prosecutions for assault may add to the crowded court docket, civic leaders may be embarrassed, other hate groups may be encouraged to recruit students from this school.

B. **What is going on at Fillmore High School?**

Fillmore High School reflects the larger community where racial, ethnic and sexual tensions and crimes are increasing.

C. **Why do you think this happens?**

Students will give their opinions. Tom Martinez is a former member of the ORDER and had dedicated his life to hatred of African-Americans and Jews. He is now a speaker at high schools to help students avoid joining hate groups.

He explains that he cultivated his racism as a teenager—in the violent halls of a junior high school gripped by court-ordered desegregation and on the streets of his all-white, working class Philadelphia neighborhood. His was a world where racial epithets were staples of the lexicon and where unemployed factory workers

blamed budding affirmative action for their plight. This was where his own racial intolerance began.

He says:

> *Intelligent people followed the doctrine of the Nazis—scientists, philosophers, doctors, intelligent people who followed a madman. So what makes you think a 10th grade dropout or a 12-year-old kid or a guy who just lost his job at Boeing isn't going to follow a very charismatic speaker in a racist movement? That's what happened to me.*

D. **Brainstorm solutions to the problems at Fillmore High School.**

In Washington, schools have undertaken these types of activities:

- Administration has held Pride Week to focus on activities of various groups to encourage unity and respect.
- Administration has sent out a series of postcards to parents listing student accomplishments and asking parents to comment on positive things at school on a postcard. The returned postcards are displayed at school.
- Teachers have taught a variety of multi-racial curricula.
- Multi-racial teams of students have been organized to advise faculty, student government and administration on easing racial tensions.
- Minority students have been given a leadership role in encouraging their peers to join the drill team and other activities in which few students of color now participate. New student advisory team members have volunteered to speak to 8th graders at a high school orientation program.
- Minority students have discussed racial harassment in a video tape to be shown to teachers and other staff members. Students have created posters promoting racial harmony.
- The end-of-year "Big Event" has been changed to a multi-cultural affair.
- Student government has been restructured to promote greater minority involvement and encouraged to deal with more substantive issues.
- A faculty team has been established to examine ways to broaden curriculum to include accomplishments of minority group members and cultures.
- Schools have increased minority faculty members.
- Administration has disciplined students who have made threats to other students and who have called other students by racial slurs.
- Administration has referred for criminal prosecution students who have threatened others.

When Hate Groups Come to Town, A Handbook of Model Community Responses, published by the Center for Democratic Renewal, describes these approaches when hate groups come to schools.

One state department of education (Maryland) has developed an emergency response guide for educators to cope with outbreaks of racist or religious violence, including KKK activity. The pamphlet offers ideas on how to demonstrate the

school's concern over such incidents, from talking about the meaning and motivation behind the act, to discussing ethnic diversity. It suggests ways that teachers can relate the incident to her or his discipline, e.g., the social studies teacher can teach the historical context of racism or ethnic groups or English teachers can point out examples of stereotyping and racism in our language.

Additionally, there should be long-range programs to address equity issues.

One state board of education adopted a strongly worded resolution reflecting its view of the role of educators in creating a climate to discourage racial, ethnic and religious bigotry. A broad base of PTAs, educators, guidance counselors, administrators, students themselves and others organized a statewide meeting to develop a coordinated strategy for a campaign against bigotry and hate/violence.

Development of official and "informal" student leaders is being done in one state. See the Handbook for additional ideas.

E. What role should a student's right to free speech play here?

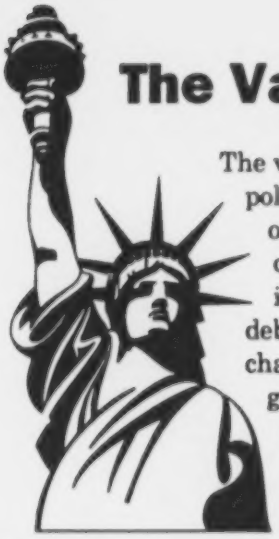
In the case of *Bethel School District v. Fraser*, 478 U.S. 675 (1986)—which took place in Washington State—the U.S. Supreme Court reinforced the ruling that public school students have free speech rights in school. But it also ruled that a high school student could be punished for his sexually suggestive speech at the school assembly. It ruled that school officials have the authority to determine what kind of speech disrupts the educational process or "invades the rights of others," in a school-sponsored activity in which students are attending as a part of their commitment to the regular school day. Chief Justice Burger, writing for the majority, suggested that school officials must uphold the "educational mission," they must teach "fundamental values." In this decision, the Court affirmed that the First Amendment free speech rights of students are limited in public school settings and certainly are not the same as the rights of adults in other settings.

Therefore, administrators constitutionally have the right to punish students for speech that disrupts the educational process or invades the rights of others during school sponsored activities which are part of the regular school day. It is important however that the administrators' decision be based on a strong showing that the speech interferes with educational effectiveness. The ages and ethnic make-up of the children at school, pre-existing racial tensions, and the potential for violent confrontation are factors that must be considered.

■ **Students should be informed** that many of the free speech activities identified in Fillmore High School are protected speech in the general society.

A major debate is presently occurring about the role of hate speech in universities. Many codes of student speech have been struck down by courts as violating a student's free speech rights.

■ **An extension activity** might be to have students develop a "Human Dignity Policy" for the high school.



The Value of Free Speech

The vitality of civil and political institutions in our society depends on free discussion. It is only through free debate and free exchange of ideas that government remains responsive to the will of the people and peaceful change is effected. The right to speak freely and to promote diversity of ideas and programs is therefore one of the chief distinctions that sets us apart from totalitarian regimes.

The right to speak freely may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea.

That is why freedom of speech, though not absolute, is nevertheless protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest. There is no room under our Constitution for a more restrictive view. For the alternative would lead to standardization of ideas either by legislatures, courts, or dominant political or community groups.

—U.S. Supreme Court

Questions

A. In the opinion of the U.S. Supreme Court, what makes democracy work?

B. How does free speech make the United States different from totalitarian governments?

C. Are there any limits on freedom of speech? If so, what are they?

D. Do people have the right to speak when their speech annoys other people?

E. What does the Supreme Court say is the result of not allowing free discussion?

F. Have you ever disagreed with someone's use of their right to free speech? Describe your experience.

G. What are the benefits of free speech?

H. What are the problems with allowing free speech?

I. Should these same values apply to public high schools, or are public high schools so different from general society that these values should not apply?

J. Some criticize Americans, saying they have gone too far in permitting freedom of speech. Do you agree? Why or why not?

K. What responsibilities do people have regarding freedom of speech?

The Value of Free Speech

Government and politics in America depend on free discussion. Free exchange of ideas allows the people to control government. It also allows for peaceable change. The right to speak freely is one of the main differences between America and totalitarian regimes.

Free speech should create a condition of unrest. It should create dissatisfaction with conditions as they are. It should stir people to anger. Speech is often challenging.

Speech may challenge strongly held ideas. It may make people very uncomfortable.

Free speech cannot be censored or punished, with one exception. It can be censored or punished if it is likely to produce a clear and present serious danger. The danger must be more than public inconvenience, annoyance, or unrest.

Without this freedom of speech, the government or community could force people to believe its ideas.

—U.S. Supreme Court

Questions

A. In the opinion of the U.S. Supreme Court, what makes democracy work?

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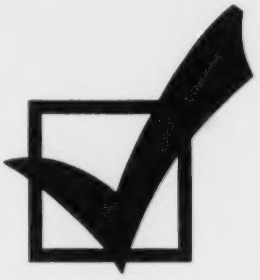
K. What responsibilities do people have regarding freedom of speech?

Free Speech Cases



Decide for each situation below whether the speech described is protected or unprotected by the First Amendment. Be sure to give your reasons.

A. At 6 a.m. before people go to work, Van Thu drives a truck with a loudspeaker in an area where people live, telling how poorly refugees are treated in this country.

☐ Protected ☐ Unprotected

Reasons:

B. A sixteen-year-old daughter mouths off to her mother.

☐ Protected ☐ Unprotected

Reasons:

C. Joe publishes a magazine called *Young Love*. The magazine contains very clear photos of children aged 8-12 performing various sex acts.

☐ Protected ☐ Unprotected

Reasons:

D. Tom, Joan's supervisor, fires her for being continually late for work. To get even, Joan tells her co-workers that he fired her because she would not date him.

☐ Protected ☐ Unprotected

Reasons:

E. The Neo-Nazi Youth Group planned a parade through the streets of Skokie, Illinois, so they could advocate the extermination of Jewish people. Most of the people of Skokie are Jewish men and women who were imprisoned in concentration camps in Germany during World War II by the Nazi government.

☐ Protected ☐ Unprotected

Reasons:

F. Fat Be Gone Company advertises that its nutrition system will result in a weight loss of five pounds per week and that none of this weight will be gained back. In reality, persons on this weight loss program lose from one to two pounds per week and most regain that weight.

☐ Protected ☐ Unprotected

Reasons:

G. Public high school students write an underground newspaper on their own time, with their own resources and distribute the paper at a class picnic. The newspaper has the results of an opinion poll about each teacher. Some of the articles are very critical of the teachers.

☐ Protected ☐ Unprotected

Reasons:

H. Migrant workers want to demonstrate in support of new laws that require safer farm machinery.

☐ Protected ☐ Unprotected

Reasons:

I. A company sends out postcards telling people they have won a new television. To collect their television, they must send the company $50 for postage. When they send in their money, they do not receive a prize.

☐ Protected ☐ Unprotected

Reasons:

J. Mary Beth and John Tinker each wear an armband to high school showing their disagreement with the American War in Vietnam.

☐ Protected ☐ Unprotected

Reasons:

Free Speech Cases

Does the person in each case below have the right to speak? Decide whether the person's speech is protected or unprotected by the First Amendment. Be sure to give your reasons.

A. At 6 a.m. before people go to work, Van Thu drives a truck with a loudspeaker in an area where people live. He tells how poorly refugees are treated in this country.

☐ Protected ☐ Unprotected Reasons:

B. A sixteen-year-old daughter says disrespectful words to her mother.

☐ Protected ☐ Unprotected Reasons:

C. Joe publishes a magazine called *Young Love*. The magazine contains very clear photos of children aged 8 to 12 performing various sex acts.

☐ Protected ☐ Unprotected Reasons:

D. Tom is Joan's supervisor at work. Tom fires her for being late for work many times. Joan tries to get revenge. She says that he fired her because she would not date him.

☐ Protected ☐ Unprotected Reasons:

E. The Neo-Nazi Youth Group planned a parade Skokie, Illinois. They want to express their view that all Jewish people should be killed. Most people of Skokie are Jewish men and women. They had been imprisoned in concentration camps in Germany during World War II by the Nazi government.

☐ Protected ☐ Unprotected Reasons:

F. Fat Be Gone Company advertises its diet program. It claims that everyone will lose 5 pounds each week. It says that no one will gain this weight back. This is not true. Most people on this diet program lose 1 to 2 pounds each week. Most people gain that weight back.

☐ Protected ☐ Unprotected Reasons:

G. Public high school students write a newspaper. They write it on their own time. They use their own money. They distribute the paper at a class picnic. Some stories are very critical of teachers.

☐ Protected ☐ Unprotected Reasons:

H. Migrant workers want to demonstrate in support of new laws. These laws would require safer farm machinery.

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J. Mary Beth and John Tinker each wear an armband to high school. The armband shows their disagreement with the American War in Vietnam.

☐ Protected ☐ Unprotected Reasons:

Flag-Burning: An Unmarked Opinion Case Study

During a political meeting in 1984, Gregory Johnson took part in a political demonstration. Along with 100 other persons, Mr. Johnson made his protest against nuclear weapons.

In front of a public building, Mr. Johnson opened up an American flag, put kerosene on it, and set it on fire. While the flag burned, the demonstrators chanted, "America, the red, white and blue, we spit on you." There were no injuries or threats of injuries during the demonstration.

Mr. Johnson was arrested and charged with the crime of dishonoring the flag. This law requires that the person knows his or her actions will seriously offend one or more persons. Several persons were seriously offended.

Opinion One

Mr. Johnson argues that he has the constitutional right to burn the flag. He claims that burning the flag is "symbolic" speech since he intended to send a message and that others understood the message.

In this case, there was no disturbance of the peace. Also, the Court should not make a specific exception for the flag. The government may not ban speech simply because society finds the ideas presented to be offensive or disagreeable.

Mr. Johnson is being prosecuted for burning the flag to express his idea. His idea is that he does not like the country's policies. Therefore, the government has not shown a sufficient reason for punishing his speech.

Since Mr. Johnson has the right to burn the flag, he cannot be convicted of a crime.

Opinion Two

For more than 200 years the American flag has been the symbol of the nation. Regardless of their own political beliefs, millions of Americans have a deep respect for the flag. The federal government and 48 of the 50 states have laws against burning the flag. They cannot all be in conflict with the Constitution.

The First Amendment is to protect the expression of ideas. Mr. Johnson could have said disrespectful words about the flag. Mr. Johnson simply does not have the right to burn the flag in public.

The right to speak is not absolute. If Mr. Johnson had chosen to spray-paint graffiti on the Washington Monument, the government would have the power to punish him. The flag symbolizes more than national unity. It symbolizes to war veterans, for example, what they fought for and what many died for. It also symbolizes our shared values, such as freedom, equal opportunity and religious tolerance.

If the great ideas behind our country are worth fighting for, then the flag is worth protecting from burning. Mr. Johnson should be found guilty and punished.

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Opinion One

Mr. Johnson argues that he has the constitutional right to burn the flag. He claims that burning the flag is "symbolic" speech. He intended to send a message of disagreement with the government. Others understood that message.

In this case, there was no disturbance of the peace. Also, the law should not create a specific exception for the flag. The government may not ban speech simply because the ideas are offensive.

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Problems at Fillmore High School

During the last year at Fillmore High School, the following incidents occurred:

- A student in the school intentionally knocked into an African American student and told him, "You're dead, nigger—I'm going to kill you."
- Graffiti using racial slurs has been spray-painted on the school.
- Two exchange students from Iran have been shunned by the student body.
- A male teacher tells a group of male students before a basketball game a joke about women really wanting to be raped.
- A male exchange student from France has been pursued by the female students.
- A female teacher tells a joke that makes people from Poland appear stupid.
- A student in speech class presents his assigned humorous speech by pretending to have a stutter.
- Some students have pointed their fingers like guns at Native American Indian students and said, "Just call me cowboy."
- A flyer inviting students to call a toll free number for information about joining the Ku Klux Klan was circulated at school.
- A counselor told an African American student that the reason beepers were not allowed in school was because blacks use them to conduct drug deals.
- A group of African American males who did not attend the school beat up a white student from the school and called him a "honky."

Directions

A. Discuss what effects the problems at Fillmore High School have on

- Students
- Teachers
- Administration
- Parents
- The Community
- The School
- Other Groups and Individuals

B. What is going on at Fillmore High School?

C. Why do you think this happens?

D. Brainstorm solutions to the problems at Fillmore High School.

E. What role should a student's right to free speech play here?

Problems at Fillmore High School

These events happened last year at Fillmore High School:

- A student in the school intentionally knocked into an African American student. He said, "You're dead, nigger—I'm going to kill you."

- Graffiti using racial slurs has been spray-painted on the school.

- Students avoid two exchange students from Iran.

- A male teacher tells a joke to a group of male students. The joke is about women wanting to be raped.

- An male exchange student from France has been pursued by the female students.

- A female teacher tells a joke that makes people from Poland appear stupid.

- A student in speech class presents his assigned humorous speech by pretending to have a stutter.

- Some students have pointed their fingers like guns at Native American Indian students. They say "Just call me cowboy."

- A flyer was distributed at school. It invited students to call a phone number for information about joining a group that hates blacks and Jews.

- A counselor explained to an African American student that beepers were not allowed in school. The counselor said it was because blacks use them to conduct drug deals.

- A group of African American males who did not attend the school beat up a white student from the school. During the assault they called him a "honky."

Directions

A. Discuss what effects the problems at Fillmore High School have on:

- Students
- Teachers
- Administration
- Parents
- The Community
- The School
- Other Groups and Individuals

B. What is going on at Fillmore High School?

C. Why do you think this happens?

D. Brainstorm solutions to the problems at Fillmore High School.

E. What role should a student's right to free speech play here?

Editorials on Flag-Burning

Sequence

This Language Arts lesson can be done in conjunction with the Social Studies Unit on Individual Rights Law. Ideally, this lesson should be done at the same time the students are discussing the flag-burning decision in the Social Studies lessons.

Language Arts Objectives

- Students will be exposed to a variety of editorials from newspapers around the country.
- Students will compare the views in four editorials on the same topic.
- Students will examine writing techniques such as alliteration, balance, and parallelism and discuss whether they produce effective and memorable writing.
- Students will write an editorial that states a position on the flag-burning issue and supports that position.

Materials

- Handout 4-5: Editorial from *The Atlanta Journal*
- Handout 4-6: Editorial from *The Indianapolis Star*
- Handout 4-7: Editorial from the *Omaha World-Herald*
- Handout 4-8: Editorial from *The Seattle Times*
- *The Arts & Media in America: Freedom or Censorship?* edited by Oliver Trager and published by Facts On File in New York also contains additional editorials on the flag-burning issue.
- Or consider finding the editorial from your local newspaper on the flag-burning issue and substitute it for one of the editorials that takes the same position.

Vocabulary

- **Desecration**—The abuse of something sacred
- **Potent**—Powerful
- **Dissident**—One who disagrees
- **Laissez-faire**—Doctrine that government should not interfere
- **Palatable**—Acceptable, sufficiently agreeable
- **Galling**—Irritating
- **Proletarian**—Working class
- **Pyrotechnic**—Pertaining to fireworks
- **Myopic**—Nearsighted
- **Heretics**—Persons who hold controversial opinions
- **Odious**—Offensive
- **Semaphore**—Any apparatus for signaling, but most often flags

Time Required
Three class periods.

Use of Journal Writing
Journal writing can be used with this unit. See the introductory material to this curriculum for general directions on using journal writing in language arts classes and for the appropriate student handouts on journal writing.

Procedures

■ **Day One**: Bring in copies of local newspapers and show students the editorial page. Explain what editorials are and how newspapers have editorial boards that determine the position the paper will take on a given issue. Explain that editorials are a part of the paper where writers attempt to persuade readers to adopt a particular point of view and that these articles are not just straight reporting of the news.

> **Note**: If your class has already done the editorial lesson for the family law unit, this first step may be unnecessary.

■ **Remind students** of the Supreme Court ruling on flag-burning on June 21, 1989. (See Social Studies lessons for the specifics of the ruling.)

■ **Ask students** if they assume most editorial boards agreed or disagreed with the Court's ruling.

■ **Distribute Handout 4-5**. Have students follow along as you read the editorial. After reading, ask students what they did not understand about the editorial. Some vocabulary may need explanation. Ask them what point the writer is making in the parenthetical in the third paragraph.

■ **Ask the students** if they liked the way the editorial was written. What is the effect of starting the editorial the way the writer did? Was any of the language effective or memorable? Be sure to point out the alliteration and parallelism in "the surly, the sick, and the silly...."

■ **Have the students** read the editorial again, silently to themselves, and then write a two-or three-sentence summary of the editorial. Ask two or three students to read their summaries to the class.

■ **Review the "fighting words"** exception to protection of speech under the First Amendment from the Social Studies lessons.

■ **Distribute Handout 4-6** and read the editorial aloud. Ask students whether the editorial agrees or disagrees with the Supreme Court's decision. Ask the following questions: Why does *The Star* bring up the incident in Las Cruces, New Mexico? Why does *The Star* quote the dissent as well as the majority? Why does *The Star* bring up that 48 states had laws against flag-burning? What possibility does *The Star* say the Court left open (see the end of the ninth paragraph)?

■ **Ask students** if the editorial contained any language that they thought was particularly effective or memorable. Be sure to point out the double meaning of "under the heaviest fire" in paragraph three.

■ **Tell students** to keep both Handout 4-5 and 4-6 and bring them to class tomorrow.

■ **Assign a journal entry** on the following question: *The Star* editorial ends by asking who will protect the rights of millions who oppose destruction of the symbols of American freedom. How should we balance the rights of the protesters with the rights of the "millions" who oppose flag-burning?

■ **Day Two**: Begin by asking students if they know who George Orwell is. Briefly describe the novel *1984*, which was about a totalitarian society in which people had virtually no rights.

■ **Distribute Handout 4-7**, and read the editorial aloud. Ask the students to identify the key point made in the first seven paragraphs. Make sure students don't confuse the statements made in defense of the ruling with the editorial's point that these statements are all part of a "perverse way of thinking." What argument does the editorial offer as a reason why the flag should be singled out as a symbol with special status?

■ Have students compare the arguments made in *The Star* with those made in the *Omaha World Herald*. Do the two papers dislike the ruling for the same reasons? Add the arguments from these two editorials to the list of arguments students developed in the Social Studies lesson on flag-burning.

■ **Ask students** if this editorial contains any effective or memorable language. You may want to point out the comparison to unilateral disarmament in the last sentence and the balanced sentence at the beginning of the second to last paragraph:

> *To protect the flag is not to place unreasonable limitations on free speech.*

■ **Now ask the students** whether they can guess how *The Seattle Times* stood on the flag-burning issue. You may want to discuss with students the fact that some newspapers are known for having liberal or conservative tendencies.

■ **Distribute Handout 4-8**, and read the editorial aloud. Ask the students to explain what a "proletarian internationalist, a Maoist" is. Ask students what the writer means by the reference to "Tiananmen Square." Why did the writer contrast the court ruling with the ordered deaths of 27 students in China? What is the key point the editorial offers for supporting the Supreme Court's ruling?

■ **Compare the key point** in *The Seattle Times* editorial with the key points in *The Atlanta Journal* editorial. Both sides agree with the decision, but do they agree for the same reasons?

■ **Add the arguments** from *The Seattle Times* and *The Atlanta Journal* to the list of arguments developed in the flag-burning lesson in the Social Studies section.

■ **Before leaving** *The Seattle Times* editorial, ask students if there was anything effective or memorable about the way it was written. Be sure to point out the literal and figurative use of "spit" and "spat" and the double meaning of "put a flame to."

■ **Assign students** to write an editorial on the flag-burning issue. They may agree or disagree with the Supreme Court, but they must include support for their views. They can use the arguments developed in the Social Studies lesson, the points made

in the newspaper editorials, and new ideas of their own. Encourage students to use effective and memorable language to make their editorial persuasive. The editorials should be 1-2 pages long and ready for the next day's class.

■ **Day Three**: Break the class into groups of four students each. Each group should have both positions on the issue represented. Each member of the group should read his or her editorial to the rest of the group. After the reading, the group should briefly discuss what was the strongest feature of that editorial. After all four editorials are read, the group should decide if any of the four editorials are so good that they should be read to the entire class. Papers can then be collected and graded. Send the best editorials to the school newspaper for publication.

The Atlanta Journal
The Atlanta Constitution
Atlanta, Georgia, June 25, 1989

Well, of course burning or otherwise desecrating the American flag "is wrong, dead wrong," as President Bush said in deploring the recent U.S. Supreme Court ruling. The court did not say otherwise, however. It did not welcome desecration. It only ruled that our Constitution's free-speech guarantee allows the surly, the sick and the silly to trash the flag if they insist.

The justices could hardly have done otherwise. (And it is worrisome that four would have.) The principle has long been established that "speech" in the Bill of Rights does not mean only literal speech but other forms of personal expression as well—symbolic speech, as the term goes. To hold differently would be to crimp the guarantee into a narrow literal- mindedness that would erode its protections, especially in an age when televised and other images are a large part of the nation's political and social semaphore.

For most of us, the flag is a potent symbol of what we love about this country. And it is precisely because the flag is so potent that dissidents can't properly be denied its misuse to make a point. (In the informal justice of such matters, however, the desecrations invariably repel rather than attract interest in the dissent; the abuses are self-indulgent and neatly self-defeating.)

The ruling surprised many, coming from the court that is now widely and correctly recognized as conservative. In fact, the furtherance of civil liberty is a profoundly conservative imperative, though it may be that this court was about lesser business. It begins to appear that the court's conservatism has a libertarian streak, of the sort that matches laissez-faire social policy to laissez-faire economics. The justices on Friday barred Congress from enacting an across-the-board ban on sexually explicit telephone services, the so-called dial-a-porn.

In both cases, the court gave the First Amendment its full due and left it up to individuals, not legislators, to make decisions about the their own behavior. Where there is no potential harm to others, generally that is just the thing to do.

The Indianapolis Star
Indianapolis, Indiana, June 23, 1989

Signs of the times that make patriotic blood boil: On the day that the Supreme Court ruled that desecrating the American flag is protected by the First Amendment, a man in Las Cruces, N.M., faced a 90-day jail sentence for flying the flag.

In Las Cruces, a man who flew a U.S. flag on a 40-foot pole at his home was prosecuted because a woman living next door said the flapping of the flag disturbed her. He said he would appeal.

The cases were not related, but they might as well have been. Old Glory is under the heaviest fire since Francis Scott Key wrote The Star-Spangled Banner during the War of 1812.

The Supreme Court affirmed a Texas Court of Appeals ruling of April 20, 1988, that the First Amendment guarantee of free speech protected the action of Gregory Lee Johnson, who burned a U.S. flag to protest Reagan administration policies, during the 1984 Republican National Convention at Dallas, while a crowd of 40 to 50 chanted, "American, the red, white and blue, spit on you."

Under Texas law, desecration of the U.S. or state flag is a crime. Johnson was convicted, fined $2,000 and sentenced to a year in prison. The appeals court overturned the conviction. Texas sought to reinstate it.

The Supreme Court voted 5-4. Conservative Justices Antonin Scalia and Anthony Kennedy joined Justices Thurgood Marshall, Harry A. Blackmun and William Brennan to affirm.

Brennan wrote the opinion, saying, "We do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents."

Chief Justice William Rehnquist and Justice Byron White, Sandra Day O'Connor and John Paul Stevens dissented, Rehnquist writing: "Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people—whether it be murder, embezzlement, pollution or flag-burning."

The court's ruling appears to nullify the laws of 48 states and a federal statute against flag desecration at peaceful protests. Only Wyoming and Alaska lack such laws. But it left open the possibility that flag-burning to incite a riot may be prosecutable as a crime.

That was wise. A great many Americans are strongly opposed to public burning of the flag, just as they would be to public burning of the Declaration of Independence and the Constitution. Even if such symbolic actions are, in the eyes of the law, words, to many they are fighting words, which can incite riots and other violence, and have done so often.

At present, the rights of protesters to destroy the symbols of American freedom are protected. Who will protect the rights of the millions who oppose destruction of the symbols of American freedom? Do they count for nothing in this supposedly enlightened age?

Omaha World-Herald
Omaha, Nebraska, June 26, 1989

Some of the defenders of the U.S. Supreme Court's ruling on flag-burning have suggested that the ruling makes America a better, freer or more reasonable nation. To judge from the reaction of the public and its representatives in Congress, a lot of Americans are having trouble swallowing that idea.

Understandably so. Consider some of the statements made in defense of the ruling:

—Justice William Brennan, the author of the opinion that struck down a flag-desecration law in a Texas case, said that to punish those who desecrate the flag is to "dilute the freedom that this cherished emblem represents."

—Syndicated columnist Otis Pike said the five justices who approved the decision "joined to keep our minds masters of our passions."

—Columnist Jeff Greenfield wrote" "The fact that our system permits the desecration of the symbol of our land is one reason why that symbol is to be treasured."

Some of those statements could have been written by George Orwell.

The idea seems to be that carrying a right or privilege to extremes makes it more meaningful. The sacred constitutional guarantee of freedom of speech, by the perverse way of thinking that applauds the flag-burning decision, becomes more sacred each time the courts discover another kind of behavior that can be reclassified as "speech" and crammed under the constitutional umbrella.

Now flag-burning is under the umbrella and Americans are being asked to believe that the decision demonstrates high regard for the flag, a triumph of reason over emotion and the dawn of a higher state of freedom after decades of something less.

It's no wonder that a lot of people are dismayed by the ruling. The explanations and defenses make it no more palatable than it seemed when announced.

To protect the flag is not to place unreasonable limitations on free speech. Political debate is not thereby stifled. The right to speak out on the issues—and to use the many other symbolic ways that have been developed to attract attention and make a point—is in no significant way abridged.

A nation must stand for something. To reserve one symbol for special status is a demonstration of the bonds that hold the people together and the self-respect that they have as a nation. A nation that looks on powerlessly as its flag is burned and spat upon has, in the moral sense, disarmed itself unilaterally.

The Seattle Times
Seattle, Washington, June 23, 1989

The U.S. Supreme Court boldly endorsed free speech as it declared this week that burning an American flag was a protected form of political protest.

As galling as the 5-4 ruling will be for most Americans, the court decision was a courageous affirmation of liberty, a triumph of substance over a symbol.

The case involved a man who set fire to a flag outside the 1984 Republican National Convention in Dallas. A crowd chanted, "American, the red, white and blue, we spit on you," as Gregory Johnson put a flame to the Stars and Stripes.

By every measure, the court majority spat right back in the crowd's face with its ruling to side with free speech. The message was plain that some Texas pissant with a lighter was not going to put a flame to principles that had withstood armed aggression.

Americans have fought and died to protect the right to disagree with their government. Blood was not shed or lives given for a symbol but for the rights behind the flag.

Johnson is a confused soul caught up in a radical pantomime. He says he is not an American but "a proletarian internationalist, a Maoist," and a member of the Revolutionary Communist Youth Brigade.

How would those cliched allegiances translate in Tiananmen Square? Would Johnson have been with the soldiers firing on unarmed protesters, or dying with the proletarian internationalists being run over by tanks?

Johnson obviously picked the safest turf for Maoist gibberish and pyrotechnic political expression.

The same day on which a majority of justices affirmed Johnson's right to burn a flag, some other followers of Mao ordered the deaths of 27 students and workers who cried out for democracy.

Sadly, this will be lost on Johnson, but such myopic heretics rightfully put democratic rhetoric to the test. They force us to re-examine values and, it is to be hoped, to stand behind them. As Justice Brennan wrote for a majority on the court that embraced Johnson's odious challenge:

"If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

Word Search

Sequence

The word search for Individual Rights Law can be done at any time in the unit after the vocabulary for that unit has been established.

Language Arts Objectives

- Students will review vocabulary for Individual Rights Law.
- Students will experience some reinforcement in the correct spelling of the vocabulary words for Individual Rights Law.

Materials

- Handout 4-9: Word Search for Individual Rights Law
- Handout 4-10: Answer for Word Search for Individual Rights Law

Procedures

■ **Distribute the Word Search**, Handout 4-9, whenever there is five to ten minutes remaining in the class period and you have already completed the rest of the lesson for that day.

■ **Post the Answer to the Word Search**, Handout 4-10, the following day, or photocopy the answer handout and distribute.

W	T	Q	L
X	**O**	S	M
E	Z	**R**	B
S	D	V	**D**

Word Search

W	T	Q	L
X	O	S	M
E	Z	R	B
S	D	V	D

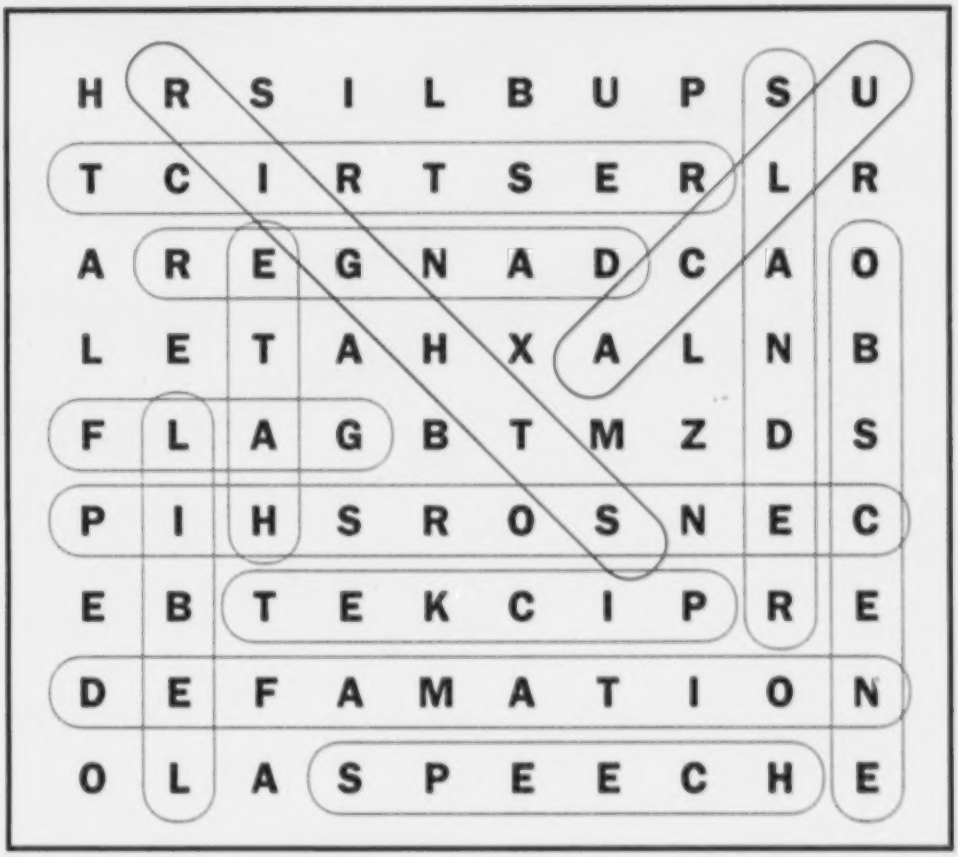
Find the following words that concern freedom of speech:

censorship	**libel**	**ACLU**
slander	**rights**	**flag**
restrict	**danger**	**hate**
picket	**obscene**	**speech**
defamation		

H	R	S	I	L	B	U	P	S	U
T	C	I	R	T	S	E	R	L	R
A	R	E	G	N	A	D	C	A	O
L	E	T	A	H	X	A	L	N	B
F	L	A	G	B	T	M	Z	D	S
P	I	H	S	R	O	S	N	E	C
E	B	T	E	K	C	I	P	R	E
D	E	F	A	M	A	T	I	O	N
O	L	A	S	P	E	E	C	H	E

Answer to Word Search

W	T	Q	L
X	**O**	S	M
E	Z	**R**	B
S	D	V	**D**



Vocabulario

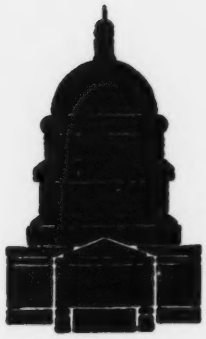
Regla exclusionaria se aplica a la prohibición de usar pruebas obtenidas ilegalmente, por ejemplo en un cateo ilegal o en una detención ilegal. Las pruebas obtenidas ilegalmente no pueden ser admitidas como evidencia en el juicio para probar la culpabilidad del acusado.

Motivo fundado significa que un agente tiene evidencia suficiente tal que haría a una persona razonable creer que los artículos que se buscan están relacionados con actividades delictuosas y serán encontrados en el sitio a ser registrado. Este nivel de información es superior al de sospecha razonable.

Sospecha razonable es una medida de cuánta información confiable tiene un agente de policía. Un agente debe contar con información a este nivel para justificar el parar a individuos para interrogarlos cuando los individuos razonablemente creen que no están en libertad de irse.

Orden judicial es una orden del tribunal autorizando una acción de la policía, tal como una orden de cateo.

Cateo e Incautación según las Constituciones de Los Estados Unidos y de Washington



Constitución de los Estados Unidos, Cuarta Enmienda

El derecho del pueblo a estar a salvo en sus personas, casas, documentos y pertenencias, de cateos e incautaciones irrazonables, no debe ser violado y no se expedirán Ordenes Judiciales excepto con motivo fundado amparado por Juramento o declaración formal, y describiendo particularmente el sitio a ser registrado, y las personas o cosas que serán detenidas o embargadas.

a. Subraye arriba las palabras importantes en la Constitución.
b. La Cuarta Enmienda prohibe:

(1) cateos e incautaciones irrazonables por parte de las autoridades gubernamentales

(2) de zonas que caen dentro de una expectativa

(3) legítima de privacidad.

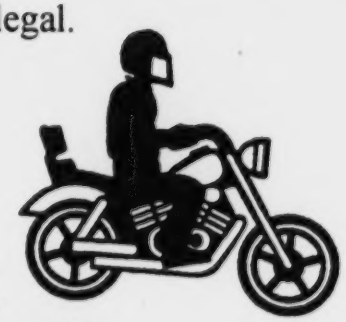
Constitución del Estado de Washington, Artículo 1, Sección 7

Ninguna persona será perturbada en sus asuntos privados, ni su hogar invadido sin autoridad legal.

a. Subraye las palabras importantes.

Casos de Cateo e Incautación

Instrucciones: Decida en cada caso si el registro es legal.



A. Rodney McWatters se lesionó en un accidente de motocicleta. McWatters estaba consciente cuando llegó el asistente médico. MacWatters estaba caído boca abajo en la calle. El asistente médico cortó su ropa y lo puso boca arriba. El quería percatarse de que tan lesionado estaba McWatters.

El asistente médico encontró un pequeño bolso sobre el estómago del McWatters conteniendo $11,000. El asistente médico registró la ropa del Sr. McWatters para buscar cosas de valor. Este es el procedimiento correcto. Evita acusaciones de que el asistente médico robó algo perteneciente a la persona lesionada. Dentro de los pantalones del Sr. McWatters el asistente médico encontró un cuchillo, una libreta y heroína. El paramédico entregó el dinero y las drogas a la policía.

¿Realizó el asistente médico un registro legal?

B. Phillip Stokes es un adulto que vivía con su madre, la señora Stokes. La señora Stokes pagaba la renta. La señora Stokes guardaba su máquina de coser en el cuarto de su hijo. De vez en cuando ella entraba al cuarto. Phillip mantenía la puerta cerrada con llave la mayoría del tiempo.

Un día la policía llegó a investigar un asesinato que creían que Phillip había cometido. Le preguntaron a la señora Stokes si podían registrar el cuarto de Phillip. Ella accedió. Registraron el cuarto. Encontraron evidencia que vinculaba a Phillip con el asesinato.

¿Realizó la policía un cateo legal en el cuarto de Phillip?

El Individuo No Es Culpable: Caso de Estudio No. 1

La policía tiene informes de que miembros de una pandilla asiática están vendiendo drogas. Los miembros de las pandillas asiáticas suelen ir vestidos completamente de negro.

Vhan es un chico de 20 años. Vhan no habla mucho inglés. Una tarde Vhan está manejando el carro nuevo de su tío. Vhan está vestido completamente de negro.

Dos agentes en una patrulla de policía, paran a Vhan. Piensan que podría ser un miembro de la pandilla que vende drogas. Ellos piensan ésto porque él es un joven asiático, está manejando un carro nuevo y está vestido todo de negro.

La policía ordena a Vhan a bajarse del carro y le dicen que ponga las manos encima del carro. Uno de los agentes registra la ropa de Vhan palpándolo con las manos. El agente siente algo duro que podría ser cocaína en piedra ("crack"). El agente busca y saca unas pequeñas piedras del bolsillo de Vhan. No son drogas.

El otro agente mira dentro del carro y bajo los asientos buscando drogas y armas. Los agentes le dicen a Vhan que abra la maletera del carro para poder mirar si hay drogas adentro.

Vhan abre la maletera y le muestra a la policía que está vacía.

La policía le dice a Vhan que ésta es una parada de rutina y que ahora puede irse.

A. ¿Qué ocurrió en el caso?

B. ¿Procedió la policía justamente? ¿Porqué sí o porqué no?

El Individuo Es Culpable: Caso de Estudio No. 2

El mismo día que la policía paró a Vhan, también paró a Thuy.

Thuy es también un joven de 20 años y no habla mucho inglés. Sin embargo, Thuy es un miembro de una pandilla asiática. Thuy maneja un carro nuevo comprado con dinero procedente de las drogas. Thuy está vestido todo de negro. Es un miembro de una pandilla.

Dos agentes en una patrulla de la policía paran a Thuy porque piensan que puede ser un miembro de la pandilla que vende drogas. Piensan ésto porque porque es un joven asiático, conduce un carro nuevo y va vestido todo de negro.

La policía ordena a Thuy a bajarse del coche y poner las manos encima del carro. Uno de los agentes registra a Thuy palpándole la ropa para buscar armas y encuentra una pistola en sus pantalones.

El otro agente mira dentro del coche y registra bajo los asientos buscando drogas y armas y encuentra un pequeño paquete de cocaína en piedra ("crack") bajo el asiento. Los agentes le dicen a Thuy que abra la maletera para poder ver si hay más drogas en el carro. Thuy abre la maletera. En la maletera hay más cocaína.

La policía le dice a Thuy que está bajo arresto y lo llevan a la cárcel.

A. ¿Qué pasó en este caso?

B. ¿Procedió la policía justamente? ¿Porqué sí o porqué no?

Reglas de la Policía

A. Un agente de policía tiene el derecho de acercarse a cualquier persona en un lugar público y hacerle preguntas siempre y cuando el individuo no tenga obligación de contestar, y pueda simplemente alejarse del sitio.

B. Un agente de policía no tiene el derecho a parar al conductor de un carro a no ser que el agente tenga la información suficiente para creer razonablemente que el individuo ha quebrantado la ley.

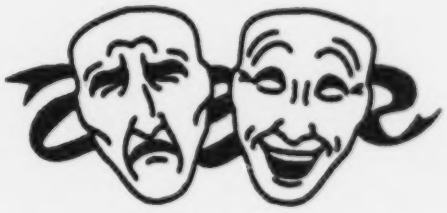
   El agente puede parar a un automovilista por conducir con un faro trasero roto o por otras infracciones de tránsito.

C. Si el agente de policía tiene una "sospecha razonable" de que un individuo está involucrado en una actividad delictuosa, el agente puede parar a esa persona e interrogarla.

D. Si el agente tiene motivos para creer que la persona porta armas y es peligroso, el agente puede palparle la ropa exterior para buscar armas.

E. El agente tiene el derecho de meter la mano en la ropa solamente si al haber palpado sintió algo que podría ser un arma o contrabando inmediatamente identificable y sacar ese objeto de la ropa.

Trabajo de Grupo – Primer Día

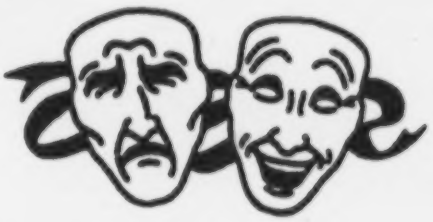


1. (3 minutos) Seleccionen un líder de grupo y un escritor del grupo. El trabajo del líder es mantener ocupado al grupo. El líder debe asegurarse que cada uno participa y que ninguna persona domina al grupo. El trabajo del escritor es mantener un registro por escrito de todo lo que hace el grupo para que el grupo pueda a su vez informar al profesor.

2. (10 minutos) En grupo, comenten sobre lo que piensan que sería un caso interesante de cateo o de incautación en una escuela preparatoria. Pueden usar el conjunto de ideas que salieron de la clase o proponer su propia idea. El escritor deberá escribir sus ideas.

3. (15 minutos) En grupo, hagan un bosquejo de una trama sencilla que culmine en un cateo o en una incautación. Diseñe una situación en la que participen de 4 a 5 personajes. El escritor deberá escribir sus ideas. La hoja de entrega 1-11 es un ejemplo del tipo de bosquejo simple de la trama que ustedes deberán diseñar.

Muestra de un Bosquejo Simple de una Trama



Ejemplo: Un profesor quien ha sido amenazado por un estudiante llamado Jorge le dice al Director que le han contado que Jorge tiene un arma en su casillero de la escuela. El Director y el profesor confrontan a Jorge y a su novia Diana enfrente del casillero de Jorge. A pesar de las protestas de Jorge, el Director abre el casillero y encuentra una pistola que se usa para dar la salida en competencias, la cual habia sido robada en el encuentro de atletismo del fin de semana pasado.

Trabajo de Grupo — Segundo día

Use el mismo líder y el mismo escritor que su grupo seleccionó el primer día.

1. (5 minutos) Decida sobre los 4 ó 5 personajes de la obra de su grupo. Dele un nombre a cada uno.

2. (10 minutos por personaje) Comenzando por el personaje más importante de su obra, desarrolle cada personaje uno por uno.

   Asegúrese de describir su apariencia física:

   Su personalidad:

   Sus antecedentes generales o "historia":

   Qué los motiva:

   Su relación con los otros personajes:

El escritor deberá escribir lo que el grupo decida sobre sus personajes.

La hoja de entrega 1-13 puede darle una idea de como desarrollar un personaje.

Asegúrese de que su grupo controle bien el tiempo para que puedan completar todos los bosquejos en este día.

Muestra de un Personaje

Ejemplo:

Personaje - Jorge Hughes

Jorge es un estudiante muy buen mozo y popular quien siempre ha sacado calificaciones promedio. Ultimamente ha tenido un gran número de problemas: su padre perdió el empleo, la familia está económicamente presionada, y como consecuencia el matrimonio de sus padres parece estar terminando. Jorge generalmente no tiene problemas con los profesores en la escuela, pero su profesor de historia, el señor Jennings, creyó que estaba haciendo trampa en un examen, así que le dió cero en el examen y ha dicho que probablemente lo reprobará en historia. Jorge le dijo que si lo reprobaba en historia "él (Sr. Jennings) se iba a arrepentir".

Vocabulario

La sección de vocabulario enumera palabras de terminología legal específica que pueden ser nuevas para los estudiantes.

Abuso -- Disciplina física de un niño que no es razonable ni moderada.

Niño -- Alguien menor de 18 años.

Consentimiento -- Acuerdo voluntario, a sabiendas.

"Salud, seguridad y bienestar" -- La Ley de Washington requiere que LosServicios de Protección al Menor (una sección del Departamento de Salud y Bienestar Social), proteja "la salud, la seguridad y el bienestar" de los niños.

Abogado -- Una persona que ha cursado 3 años en una escuela de Derecho después de la universidad y ha aprobado el examen del Colegio de Abogados. Los abogados desempeñan muchas funciones, incluyendo la redacción de contratos, gestión de transacciones de negocios y representación de clientes en los tribunales.

Negligencia -- No proveer al niño con las necesidades básicas de la vida, tales como alimento, vivienda y ropa. Si los padres han realizado un esfuerzo razonable para obtener estas cosas, podrían no ser considerados negligentes.

Juicio de paternidad -- Una acción entablada por una mujer en el tribunal contra un hombre quien ella declara ser el padre de su hijo. Si se comprueba la paternidad, el hombre es responsable por el mantenimiento del niño.

Encuesta de Opinión sobre el Derecho de Familia

Coloque en el espacio en blanco de la izquierda la letra que mejor corresponda con su opinión.

Firmemente de acuerdo (FA), de Acuerdo (A), Indeciso (I), en Desacuerdo (D), Firmemente en Desacuerdo (FD)

_____ A. Si una esposa desea tener un aborto, ella debería de ser capaz de hacerlo sin el consentimiento de su esposo.

_____ B. Los esposos debería de tener que mantener a las esposas pero las esposas no deberían de tener que mantener a los esposos.

_____ C. Un esposo que abusa físicamente a su esposa debería ser enjuiciado por agresión criminal.

_____ D. Si una esposa es obligada a tener relaciones sexuales que no desea con su esposo, debería permitírsele presentar cargos de violación contra su esposo.

_____ E. Las mujeres embarazadas que usan drogas o toman licor en exceso durante el embarazo deberían ser enjuiciadas por abuso contra menores.

_____ F. Los anticonceptivos deberían ser distribuidos en las escuelas.

_____ G. A las mujeres que son halladas culpables de abuso contra menores debería exigírseles que reciban una implantación anticonceptiva para evitar que tengan más niños.

_____ H. Si los padres se divorcian, los niños deberían de poder decidir con cual de los padres quieren vivir.

_____ I. Los padren deberían tener derecho a disciplinar a sus hijos de acuerdo a su propio criterio.

_____ J. Si dos personas del mismo sexo desean casarse, debería permitírseles hacerlo.

Traducción al español - Agosto 1993 - Zulema Borges

¿Incumplimiento de Contrato Verbal? ¿Los Derechos de Quién Prevalecen?

Kelly y Leon han estado saliendo juntos por seis meses. Ambos tienen 18 años y viven en el estado de Washington. Al principio de sus relaciones sexuales, Kelly le dice a Leonque tiene una enfermedad y que no puede tener hijos. Leon le pide a Kelly que de todas maneras use anticonceptivos. Leon no usa ningún tipo de anticonceptivos.

Kelly queda embarazada. Leon le pide que tenga un aborto. Le dice que no está listo para casarse. El quiere ir a la Universidad. Kelly se niega.

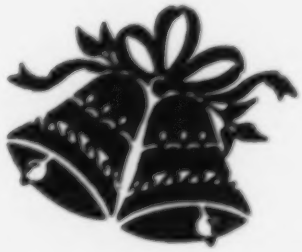
Ellos terminan. Leon no sabe de Kelly hasta un año después. Un día se le notifica que Kelly ha entablado un juicio de partenidad contra él. En la demanda, Kelly pide que Leon sea declarado el padre del niño, y que pague la cantidad de $350 mensuales para el mantenimiento del niño. También le pide a Leon que le reembolse los gastos médicos que tuvo durante el embarazo y los gastos de mantenimiento de los últimos seis meses, desde que el niño nació. Kelly alega que, unos cuantos meses después de haber comenzado sus relaciones, ella le dijo a Leon que ya no estaba usando anticonceptivos.

Leon contrata un abogado para que lo represente porque piensa que no se le debería exigir que mantenga a este niño. Dice que Kelly nunca le dijo que había dejado de usar anticonceptivos.

El abogado de Leon alega que Kelly quebrantó una promesa verbal (un contrato) entre ellos de usar anticonceptivos. También alega que su negativa a tener un aborto aumentó los daños a Leon causados por su incumplimiento de contrato. Además alega que Kelly fue descuidada y negligente al no usar anticonceptivos, y que intencionalmente le mintió en cuanto a si estaba usando o no anticonceptivos.

Traducción al español - Agosto 1993 - Zulema Borges

Encuesta de Opinión — Matrimonio



Muchas cosas contribuyen a un matrimonio exitoso. ¿Cuál de los siguientes factores piensa que es el más importante para un matrimonio? Ponga el número "1" al lado de ese factor. Dele el número 2 al factor segundo en importancia. Continúe hasta que le haya dado un número a cada factor. El menos importante será el número "10".

_____ religión

_____ dinero

_____ relaciones sexuales

_____ intereses comunes

_____ romance

_____ fidelidad

_____ diferencia de edades

_____ llevarse bien con parientes y suegros

_____ ser de la misma cultura o del mismo país de origen

_____ niños

Traducción al español - Agosto 1993 - Zulema Borges

Ley de Washington sobre Negligencia y Abuso de Menores

El abuso de menores o la negligencia es cualquier trato a un niño que pone en peligro su salud, su bienestar y su seguridad.

- **Abuso físico:** Lesiones a un niño que no son accidentales. Ejemplos serían huesos rotos, rasguños que son más que temporales, cortadas, un ojo morado o quemaduras. El abuso físico también puede incluir acciones crueles o inhumanas que causen dolor físico o mental.

- **Abuso emocional:** Hacer que un niño sienta que no es querido ni deseado o que no vale para nada.

- **Negligencia física:** No proporcionar al niño un hogar seguro, suficiente comida, ropas o atención médica. Si el padre/madre no puede costear estas cosas, podría no ser negligencia si ha hecho un esfuerzo razonable por obtener asistencia. La negligencia también incluye la falta de supervisión adecuada.

- **Abuso sexual:** Usar a un menor para actos sexuales, fotografías pornográficas, prostitución o cualquier otro tipo de actividad sexual.

Bajo la ley, ciertas acciones son consideradas irrazonables cuando se usan para restringir o castigar a un niño (Esta lista tiene por objeto ilustrar los tipos de abuso físico y no es una lista exhaustiva). Estas son:

1. Lanzar, patear, quemar o cortar a un niño.
2. Golpear a un niño con el puño cerrado.
3. Sacudir a un niño menor de tres años.
4. Interferir con la respiración de un niño.
5. Amenazar a un niño con un arma mortal.
6. Cometer otros actos que probablemente lleguen a causar o que causen daño corporal mayor que un dolor pasajero o marcas temporales pequeñas.

La edad, el tamaño y condición del niño y el sitio de la lesión son importantes al decidir si la acción de un padre es abuso de un menor.

La disciplina física de los niños no es ilegal, siempre y cuando sea "razonable y moderada". Los padres pueden, por ejemplo,usar la palma de la mano para golpear a su niño en el trasero, siempre y cuando no dejen contusiones o marcas duraderas.

Traducción al español - Agosto 1993 - Zulema Borges

¿Es Esto Abuso de Menores o Negligencia?

Lea cada párrafo y decida si piensa que hay negligencia o abuso de menores según la ley de Washington. Escriba en el espacio en blanco "Si" si piensa que hay negligencia o abuso, o "No" si piensa que no hay abuso de menores o negligencia.

____ A. Tom, quien tiene 15 años, llegó a casa 4 horas tarde de un juego de basquetbol en su escuela. Su padre lo golpeó en la cara con el puño, produciéndole un ojo morado.

____ B. Vannary tiene 8 años. Su madre la deja cuidando a sus tres hermanas menores, quienes tienen 5, 4 y 2 años de edad, mientras ella se va de compras. La madre se tarda dos horas.

____ C. Ambos padres trabajan tiempo completo. Durante el verano dan a su hija de 12 años la responsabilidad completa de hacerse cargo de la casa, incluyendo a los dos niños menores, mientras ellos se van a trabajar.

____ D. Los padres de Dawit no le permiten ir a ninguna de las excursiones de la escuela.

____ E. Jane tiene 6 años. Sus padres la atan a la cama mientras salen de compras para que ella no se escape de la casa.

____ F. Tim, de 9 años, desobedeció a su padre. Este le pide que se arrodille sobre arroz crudo por una hora.

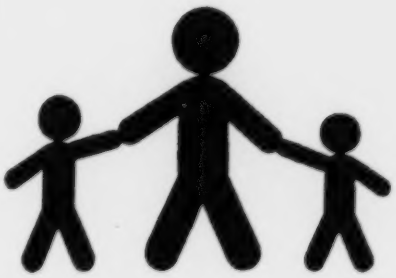
____ G. María tiene 16 años. Su padre regularmente se va a la cama con ella y tiene relaciones sexuales.

____ H. Carla tiene 13 años. Su padrastro le toca los senos a través de la ropa y hace que ella le toque a él sus partes genitales.

____ I. Jorge, un padre soltero con tres niños, escasamente puede pagar todos los gastos de cada mes. No le compra a sus niños ropa nueva para la escuela y les da de comer solamente una vez al día. De alguna forma Jorge siempre parece encontrar dinero suficiente para comprar cerveza y cigarros.

____ J. Una madre usa su mano para castigar a su hija de 10 años hasta que la niña llora.

Versión Ampliada del Caso Hipotético C



El señor y la señora Smith son unos padres que trabajan y que durante el verano, dejan su hogar y sus dos hijos menores, Sarah (de 2 años) y Zachary (de 9 años), al cuidado de Liza, su hija de 12 años.
Zachary es más activo de lo normal y tiene algunos problemas de comportamiento. Sarah toma una siesta después del almuerzo. A ninguno de los niños se les permite invitar amigos a la casa mientras sus padres están en el trabajo.

Liza es muy madura para su edad. Ella pidió tener esta responsabilidad durante el verano porque le disgusta tener personas mayores ("babysitters") para que los cuiden. Ella ha tomado un curso de primeros auxilios y otro de cuidado de niños en el YMCA local, y frecuentemente, durante el año escolar, trabaja cuidando niños por las noches para los vecinos.

La familia Smith está muy bien económicamente. Ellos pueden fácilmente costearse otra guardería, y hay una buena guardería a cinco minutos de la oficina del señor Smith. El YMCA ofrece un programa diurno de actividades para niños de 10 a 14 años de edad.

Los Smith viven en un "suburbio de dormitorios" donde muy pocas personas se encuentran en el hogar durante el día. Ambos sitios de trabajo se encuentran aproximadamente a media hora de la casa. La madre de la señora Smith, quien tiene 80 años de edad, vive a cinco minutos de la casa de ellos. El centro médico más cercano está a cinco millas. La comunidad donde viven los Smiths tiene una línea para emergencia del 911.

Liza tiene la responsabilidad de preparar almuerzo para ellos tres; ella no puede usar la estufa ni el horno, pero sí se le permite usar el micro-ondas. Ambos, el señor y la señora Smith, llaman a Liza durante el día para averiguar como andan las cosas.

El Vals de mi Papá

El aroma de whisky en tu aliento
podía causarle vértigo a un niño pequeño;
pero me aferré a ti como la muerte
no fue fácil así valsear contigo

Retozamos tan fuerte que hasta las ollas
de su repisa se deslizaron en la cocina:
En el semblante de mi madre se veía
que no podía dejar de fruncir el entrecejo

La mano con la cual mi muñeca sujetaste
Un nudillo tenía con magulladura
Y a cada paso que fallaste
Mi oreja derecha raspaba una hebilla

Compás y tiempo marcaste en mi cabeza
con una palma endurecida por la mugre
Luego a la cama valseando me llevaste
De tu camisa yo todavía aferrado.

- Theodore Roethke, 1948

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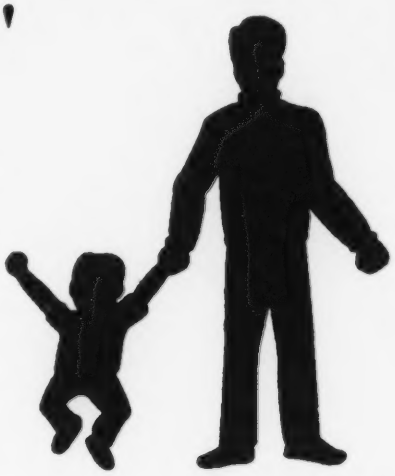
Dos Interpretaciones de "El Vals de mi Papá"



Interpretación 1:

"El Vals de mi Papá" es sobre un incidente de abuso entre un padre y su hijo.

Interpretación 2:

"El Vals de mi Papá" es sobre un momento afectivo entre un padre y su hijo.

NGỮ VỰNG (vocabulary):

Exclusionary Rule *(luật khai trừ)*: Luật cấm không cho dùng những bằng chứng tìm được qua sự khám xét hoặc bắt dừng lại bất hợp pháp. Những bằng chứng này không được phép dùng trong toà để chứng minh can phạm có tội.

Probable Cause *((nguyên nhân khả tín)*: Cảnh sát viên có đủ bằng chứng như một người thông thường có thể tin là khi khám xét nghi phạm sẽ tìm được những tang chứng có liên quan đến những hành vi phạm pháp. Những tin tưởng này phải hơn một sự nghi ngờ hợp lý.

Reasonable Suspicion *(nghi ngờ hợp lý)*: Cảnh sát viên phải có những tin tức xác thực hoặc đáng tin cậy để chứng minh tại sao nghi phạm bị giữ lại để trả lời những nghi vấn.

Warrant *(trát)*: Tòa án cho quyền cảnh sát hoặc thanh tra viên quyền khám xét nghi phạm hoặc gia cư của nghi phạm.

Khám xét và Bắt giữ dựa theo Hiến pháp của Hoa Kỳ và tiểu bang Washington.

(Search and Seizure Under U.S. and Washington Constitutions)

Hiến pháp Hoa kỳ, Luật bổ sung thứ tư:

"Luật bảo vệ sự an toàn của người, nhà cửa, giấy tờ liên hệ và chống lại những sự khám xét và tịch thu không hợp lý. Lệnh cho phép với nguyên nhân chánh đáng và xác thực bằng lời thề hoặc sự khẳng định diễn tả nơi sẽ bị khám xét và người hoặc tang vật thu giữ."

A. Gạch dưới những từ ngữ quan trọng trên trong hiến pháp.

B. Luật bổ sung thứ tư cấm:

(1) Chính phủ không được khám xét và tịch thu một cách không hợp lý

(2) những vật hoặc sự riêng tư của cá nhân

(3) trong lãnh vực hợp pháp của cá nhân.

Hiến pháp tiểu bang Washington, điều luật 1, mục 7:

"Không một ai bị phá rối trong công việc riêng tư, hoặc gia cư bị xâm phạm nếu như không có quyền lệnh của pháp luật."

Những Trường hợp Khám Xét và Bắt giữ
(Search and Seizure Cases)

Chỉ dẫn: *Quyết định sự khám xét dưới đây có hợp pháp hay không?*

A. Rodney McWatters bị thương trong một tai nạn xe gánh máy. Anh McWatters bị bất tỉnh khi nhân viên cứu thương tới cấp cứu. Anh McWatters nằm xấp trên mặt đường. Nhân viên cứu thương cắt bỏ quần áo của anh ta và lăn anh ta nằm ngửa lên. Nhân viên cứu thương muốn biết Anh McWatters bị thương trầm trọng đến mức nào.

Nhân viên cứu thương tìm được một cái túi trên bụng của Anh McWatters, bên trong có $11,000. Nhân viên cứu thương phải tìm xét những vật quí giá trong người của Anh McWatters. Đây là thủ tục mà tất cả nhân viên cứu thương phải làm để tránh những trường hợp bị vu cáo là ăn cắp những vật quí giá của người bị thương. Nhân viên tìm thấy trong túi quần của McWatters: một con dao, một cuốn sách và ma-túy. Nhân viên cứu thương đưa số tiền và ma-túy cho cảnh sát.

Nhân viên cứu thương có khám xét một cách hợp pháp hay không?

B. Phillip Stokes là một thanh niên, sống với mẹ, Bà Stokes. Bà Stokes trả tiền thuê nhà. Bà để máy may trong phòng của con trai bà và thỉnh thoảng vào trong phòng này. Phillip luôn luôn khóa cửa phòng.

Một hôm, cảnh sát đến để thanh tra một vụ án giết người. Họ nghi ngờ là Phillip có thể là can phạm. Cảnh sát hỏi bà Stokes cho phép khám xét phòng của Phillip. Bà ta chấp thuận. Cảnh sát lục xét và tìm thấy bằng chứng liên quan Phillip với vụ án giết người.

Cảnh sát khám xét phòng Phillip có hợp pháp hay không?

Cá Nhân Vô tội

Trường hợp tham khảo I

(The individual is not guilty: Case study I)

Cảnh sát được báo cáo rằng một nhóm du đảng, người A' Châu, buôn bán ma-túy. Những người này thường mặc quần áo màu đen.

Anh Vân, 20 tuổi, không nói được tiếng Anh nhiều. Vào một buổi chiều, Anh Vân đang lái một chiếc xe mới mà Anh mượn của người chủ. Anh Vân mặc y phục màu đen.

Hai nhân viên trong xe cảnh sát chận Anh Vân lại. Họ nghĩ anh là một thành viên của nhóm du đảng buôn bán ma-túy. Họ nghĩ như vậy bởi vì Anh Vân là người A' Châu, phái nam, lái xe mới và mặc y phục màu đen.

Cảnh sát ra lệnh cho Anh bước ra khỏi xe và yêu cầu Anh Vân để hai tay lên mui xe. Một cảnh sát khám xét người Anh và cảm thấy có vật gì cứng, ông ta nghĩ có thể đó là ma-túy. Người cảnh sát này cho tay vào túi quần Anh Vân và móc ra vài viên đá, không phải là ma-túy.

Một người cảnh sát khác nhìn trong xe và dưới gầm ghế để tìm ma-túy và vũ khí. Những người cảnh sát này yêu cầu Anh Vân cho họ mở cốp xe để tìm xem có ma-túy hay không? Anh Vân mở cốp xe ra và cho cảnh sát thấy là cốp xe trống rỗng.

Cảnh sát nói với Anh Vân rằng đây chỉ là một sự chận hỏi thường lệ và cho Anh Vân đi.

A. *Chuyện gì đã xảy ra trong trường hợp này?*

B. *Cảnh sát có làm một cách công bằng hay không? Tại sao có hoặc tại sao không?*

Cá Nhân Có Tội

Trường hợp tham khảo II

(The individual is guilty: Case study II)

Vào cùng ngày cảnh sát chặn và khám xét xe của Anh Vân, họ cũng chặn Anh Thuy lại.

Anh Thuy, 20 tuổi, không nói được tiếng Anh nhiều. Mặc dù vậy, Anh Thuy là thành viên của một nhóm du đãng người A' Châu. Anh Thụy lái một chiếc xe mới - xe này mua bằng tiền mua bán ma-túy. Anh Thuy mặc y phục màu đen.

Hai người cảnh sát viên trong xe cảnh sát chặn Anh Thuy lại. Họ nghĩ Anh Thuy có thể là thành viên của một nhóm du đãng bởi vì Anh Thuy là người A' Châu, phái nam, lái xe mới và mặc y phục màu đen.

Cảnh sát ra lệnh cho Anh Thụy bước ra khỏi xe và để hai tay lên trên mui xe. Một cảnh sát viên khám xét người của Anh Thụy để tìm vũ khí và họ tìm được một khẩu súng.

Một người cảnh sát khác nhìn vào trong xe và dưới gầm ghế để tìm ma-túy và vũ khí. Người cảnh sát này tìm thấy một gói ma-túy nhỏ ở dưới ghế. Những cảnh sát viên yêu cầu Anh Thụy mở cốp xe và họ tìm thấy có thêm ma-túy ở trong đó.

Cảnh sát nói với Anh Thụy rằng anh bị bắt và họ đưa anh vào tù.

A. *Chuyện gì đã xảy ra trong trường hợp này?*

B. *Cảnh sát có làm việc một cánh công bằng hay không? Tại sao có hoặc tại sao không?*

Những Luật Của Cảnh Sát
(Rules for Police)

A. Cảnh sát viên có quyền tiến tới bất cứ một cá nhân nào tại một nơi công cộng và chất vấn người đó. Nhưng người đó không phải trả lời và có thể bỏ đi.

B. Cảnh sát viên không có quyền chận một người đang lái xe. Trừ khi cảnh sát viên có đủ dẫn chứng hợp lý để tin rằng cá nhân này đã vi phạm luật pháp.

Cảnh sát viên có thể chận một cá nhân đang lái xe với đèn hậu bị cháy hoặc vi phạm bất cứ luật giao thông nào.

C. Cảnh sát viên nghi ngờ cá nhân nào có liên can đến những hành động phạm pháp. Nếu sự nghi nghờ hợp lý, cảnh sát viên có thể chận người này lại và chất vấn người này.

D. Nếu cảnh sát viên có lý cớ để tin rằng một cá nhân có cầm theo vũ khí và nguy hiểm, cảnh sát viên có quyền khám cá nhân bằng cách vỗ nhẹ bên ngoài quần áo để tìm vũ khí.

E. Trừ khi cảnh sát cảm thấy vật gì giống và có thể là vũ khí, trong trường hợp này cảnh sát mới có quyền lấy vật đó trong người của cá nhân ra để nhận hình.

Bài làm trong nhóm (group work)

Ngày thứ nhất (day one)

1. (3 phút) Chọn một trưởng nhóm và một thư ký. Nhiệm vụ của trưởng nhóm là đảm trách công việc của nhóm. Trưởng nhóm nên làm sao cho mọi người trong nhóm tham gia và không nên để một ai có ưu thế hơn những người khác trong nhóm. Nhiệm vụ của thư ký là viết lại những gì nhóm đã làm để báo cáo cho giáo viên.

2. (10 phút) Cùng nhau trong nhóm bàn luận một vụ khám xét và tịch biên đáng quan tâm tại một trường trung học. Nhóm có thể dùng những ý kiến nêu ra trong lớp hoặc đưa ra những sáng kiến riêng. Thư ký phải viết ra những sáng kiến này.

3. (15 phút) Cùng nhau trong nhóm nghĩ ra những tình tiết căn bản của một câu chuyện đưa đến cực điểm của sự khám xét và bắt giữ. Sáng tác một câu chuyện với bốn hoặc năm nhân vật trong đó. Thư ký nên viết xuống những ý kiến này. Tài liệu (1-11) hoặc trang (73) là một trường hợp tượng trưng mà nhóm nên dựa theo để sáng tác căn bản của một cốt chuyện.

Thí dụ: Sơ lược của cốt chuyện
(Sample: Plot outline)

Một học sinh tên George de dọa một giáo viên. Người giáo viên này báo cho hiệu trưởng rằng ông ta biết được George có một khẩu súng trong tủ cá nhân (locker) của anh ta. Ông hiệu trưởng và giáo viên này đến đối chất với George và cô bạn gái của anh ta, Diane, ngay trước tủ cá nhân của anh trong trường. Bất chấp sự phản đối của George, ông hiệu trưởng mở tủ và tìm thấy một khẩu súng tay dùng để phát hiệu cho các cuộc đua. Khẩu súng này bị mất cắp trong một cuộc thi điền kinh cuối tuần qua.

Bài làm trong nhóm (group work)

Ngày Thứ Hai (day two)

Giữ lại trưởng nhóm và thư ký đã chọn trong ngày thứ nhất.

1. (5 phút) Chọn 4 hoặc 5 nhân vật cho một vở kịch, và đặt tên cho mỗi nhân vật.

2. (10 phút cho mỗi nhân vật) Bắt đầu từ nhân vật quan trọng nhất trong câu chuyện. Diễn tả đặc tính của mỗi nhân vật. Làm từng nhân vật một.

Diễn tả dáng bề ngoài của nhân vật:

Tính tình của nhân vật:

Quá khứ của nhân vật:

Những gì có thể thúc đẩy nhân vật được?

Liên hệ tình cảm đối với các nhân vật khác:

Thư ký nên viết những gì mà nhóm quyết định về những nhân vật trong câu chuyện.

Tài liệu (1-13) hoặc trang (75) cho nhóm ý kiến để sáng tạo những nhân vật một cách sống thực. Chú ý về thời giờ để nhóm có thể hoàn tất diễn tả tất cả các nhân vật nội trong ngày hôm nay..

Thí dụ: Diễn tả nhân vật
(Sample character)

Nhân vật: George Hughes.

Anh George Hughes rất đẹp trai và nổi tiếng trong trường. Số điểm của Anh George lúc nào cũng là trung bình. Gần đây Anh George có vài khó khăn: Bố của Anh George mất việc làm, gia đình lâm vào sự khó khăn về tài chánh, và từ đó đưa tới sự ly dị giữa bố và mẹ của Anh George. Thường thì Anh George không có vấn đề gì với các giáo viên trong trường, nhưng trừ thầy giáo dạy Sử, Thầy Jennings. Thầy nghĩ rằng Anh George đã gian lận trong một bài thi và cho Anh George zero điểm. Ông ta còn hăm là sẽ cho Anh George rớt lớp sử này. Anh George nói với Ông Jenning rằng: "Nếu ông cho tôi rớt, ông sẽ hối hận."

NGỮ VỰNG: (vocabulary)

Những từ vựng luật dưới dây có thể là mới đối với học sinh.

Abuse *(ngược đãi)*: Đối sử hoặc trừng phạt đứa trẻ một cách quá độ.

Child *(trẻ em)*: Những người dưới 18 tuổi.

Consent *(đồng ý)*: Tự nguyện đồng ý hoặc cho phép.

Health, safety and welfare *(sức khoẻ, sự an toàn, và an-sinh)*: Luật của tiểu bang Washington đòi hỏi hội bảo vệ trẻ em (một chi nhánh trong bộ xã hội và y tế của tiểu bang Washington) bảo vệ sức khỏe, và an sinh cho trẻ em.

Lawyer *(luật sư)*: Là một người đã học 3 năm trong trường luật và phải thi đậu một kỳ thi khắng biện gọi là "Bar Exam" để được hành nghề. Luật sư làm rất nhiều công việc khác nhau như: Thảo giao kèo, điều đình những giao dịch thương mại và đại diện thân chủ trước toà.

Neglect *(bỏ bê)*: Không cung cấp đầy đủ những tiện nghi căn bản của cuộc sống cho con cái như: Thức ăn, chổ ở và quần áo. Nếu như bố mẹ đã cố gắng lo cho con cái đủ những điều trên, tức là họ không phải bỏ bê con cái.

Paternity suit *(kiện phụ hệ)*: Một người đàn bà thưa một người đàn ông mà bà ta cho rằng người ấy là cha của đứa nhỏ. Nếu phụ hệ được chứng minh, người đàn ông phải lãnh trách nhiệm nuôi nấng.

Thăm dò ý kiến về luật gia đình.
(Family Law Opinion Poll)

Trả lời những câu hỏi dưới đây theo ý kiến của bạn bằng cách viết vào chỗ trống bên trái. Nếu như bạn

- đồng ý hoàn toàn (strongly agree) viết **SA**
- đồng ý (agree) viết **A**
- không quyết định được (undecided) viết **U**
- không đồng ý (disagree) viết **D**
- không đồng ý hoàn toàn (strongly disagree) viết **SD**

_____ **A.** Nếu như người Vợ muốn phá thai, bà ta có thể tự quyết định và không cần sự đồng ý của người chồng.

_____ **B.** Người chồng phải nuôi vợ mình, nhưng người vợ không phải nuôi chồng mình.

_____ **C.** Một người chồng mà hành hung vợ sẽ bị sử như một kẻ phạm hình sự.

_____ **D.** Nếu người vợ bị ép buộc phải giao hợp với chồng mình khi bà ta không muốn, bà được quyền tố cáo chồng bà về tội hiếp dâm.

_____ **E.** Nếu người đàn bà mang thai mà dùng thuốc kích thích hoặc uống rượu quá mức độ nên bị buộc tội ngược đãi trẻ em.

_____ **F.** Thuốc ngừa thai nên được phân phát ở trường học.

_____ **G.** Những người đàn bà bị kết tội ngược đãi con em nên bị bắt buộc chấp nhận phương pháp ngừa thai vĩnh cửu để tránh phải sinh đẻ thêm.

_____ H. Nếu cha mẹ ly dị, con cái có quyền quyết định sống với cha hoặc mẹ.

_____ I. Cha mẹ có quyền sử phạt con cái theo quyết đoán của họ.

_____ J. Nếu như hai người cùng phải muốn thành hôn, họ nên được phép.

Hủy bỏ lời giao kết

Quyền ai được nhìn nhận?

(Breach of an Oral Contract? Whose Rights Count?)

Kelly và Leon có liên hệ bồ bịch với nhau được sáu tháng. Cả hai đều 18 tuổi, và sống tại tiểu bang Washington. Trong lúc đầu khi hai người giao tình, Kelly có nói với Leon rằng cô ta có một chứng bịnh nên cô ta không thể có con được. Mặc dù vậy Leon vẫn yêu cầu Kelly uống thuốc ngừa thai. Còn Leon thì không dùng những phương thức ngăn ngừa nào cả.

Kelly có thai. Leon muốn Kelly đi phá thai. Leon nói rằng anh ta chưa muốn lập gia đình. Bởi vì Leon muốn đi học đại học. Nhưng Kelly từ chối, không chịu phá thai.

Hai người chia tay nhau. Leon không được tin tức gì của Kelly tới một năm sau. Vào một ngày, anh ta được biết rằng Kelly thưa anh và bắt anh phải nhìn nhận là cha của đứa bé và phải trả một số tiền trợ cấp $350 một tháng. Kelly cũng đòi Leon hoàn trả tiền thuốc men trong thời gian cô ta mang thai và sáu tháng trợ cấp từ ngày đứa bé ra đời. Cô ta quả quyết rằng cô có nói với Leon là cô ta không còn uống thuốc ngừa thai nữa sau khi hai người quen biết nhau được vài tháng.

Leon mướn một luật sư đại diện cho anh bởi vì anh cảm thấy mình không phải bị bắt buộc trợ cấp cho đứa bé. Anh nói rằng Kelly không hề cho anh biết là cô ta đã ngưng uống thuốc ngừa thai.

Luật sư của Leon biện luận là Kelly đã không giữ lời giao kết giữa hai người về vấn đề ngừa thai. Luật sư cũng biện luận thêm là sự từ chối phá thai của Kelly đã làm cho Leon thêm phần tổn hại vì cô ta không giữ lời giao kết. Ông ta còn nhấn mạnh thêm rằng Kelly cẩu thả trong vấn đề ngừa thai, và cô ta đã cố tình lừa gạt Leon.

Thăm dò Ý kiến về Hôn nhân

(Opinion Survey - Marriage)

Nhiều yếu tố có thể làm cho một cuộc hôn nhân hạnh phúc và bền vững. Theo bạn nghĩ yếu tố nào dưới đây là quan trọng nhất--viết số 1 vào bên gạch trái. Yếu tố nào bạn nghĩ là quan trọng thứ nhì--viết số 2 bên gạch trái. Cứ như thế cho đến khi bạn làm xong hết. Số 10 là số mà bạn cho là ít quan trọng nhất.

_____ tôn giáo

_____ tài chánh

_____ sinh lý

_____ sở thích chung

_____ tình lãng mạng

_____ chung thủy

_____ khác biệt về tuổi tác

_____ hợp với gia đình bên chồng/vợ

_____ cùng tập quán hoặc cùng quê hương

_____ con cái

Luật ngược đãi và bỏ bê đối với trẻ em dưới hiến pháp của tiểu bang Washington
(Washington's Child Abuse and Neglect Law)

Sự ngược đãi và bỏ bê đối với trẻ em là những hành động hoặc cách cư sử có thể làm nguy hiểm đến sức khỏe và an sinh của trẻ em .

Physical abuse *(hành hạ thân thể)*: Những thương tích ở thân thể của trẻ em không phải gây ra từ tai nạn. Ví dụ như gẫy xương, những vết bầm lâu dài, cắt, bầm mắt hoặc phỏng. Sự hành hạ thân thể cũng có thể là những hành động dã man hoặc vô nhân tính làm tổn thương thân thể và khủng hoảng tinh thần.

Emotional abuse *(hành hạ về tinh thần)*: Làm cho trẻ em cảm thấy không được yêu thương hoặc không xứng đáng là một sự hành hạ về tinh thần.

Physical neglect *(sự bỏ bê về thân thể)*: Như không cung cấp chỗ ở an toàn, không đủ thức ăn, nước uống, không đủ quần áo, và không chăm sóc sức khỏe cho trẻ em. Nếu cha mẹ không có khả năng để cung cấp những điều kiện nầy cho con cái, nhưng đã cố gắng hết sức mình hoặc đã tìm sự giúp đỡ bên ngoài để chăm lo thì không bị cho là bỏ bê con cái của mình. Không trông coi con em đàng hoàng cũng là một sự bỏ bê.

Sexual abuse *(hành hạ tình dục)*: Dùng trẻ em để làm tình, chụp hình lỏa thân, mãi dâm hoặc bất cứ các hành động nào liên quan đến tình dục.

Có những hành động dùng để khiến phạt trẻ em mà luật pháp không cho là chánh đáng. (Những hành động dưới đây dùng để chú thích những cách ngược đãi đối với thân thể. Do đó những hành động này không nhất thiết bao gồm tất cả).

1. Ném, đá, đốt, hoặc trấy đứt ở thân thể trẻ em.
2. Đấm trẻ em bằng nắm tay.
3. Nắm trẻ em dưới 3 tuổi và lắc thật mạnh.
4. Làm trẻ em ngẹt thở.
5. Hăm dọa bằng vũ khí nguy hiểm.
6. Làm bất cứ hành động gì mà có thể gây đau đớn cho cơ thể hơn những cơn đau và những vết bầm trong một thời gian ngắn.

Tuổi tác, kích thước, trạng thái của đứa trẻ và nơi bị thương là điều chính yếu để quyết định những hành động này có phải là cha mẹ đã hành hạ con em mình hay không.

Trừng phạt con cái không phải là một việc bất hợp pháp nhưng sự trừng phạt đó phải chánh đáng và không quá độ. Ví dụ như cha mẹ có thể dùng tay để đánh vào mông con cái mình nhưng không được làm mông con mình bầm tím.

Đứa trẻ này có bị hành hạ hoặc bị bỏ bê hay không?
(Is This Child Abuse or Neglect?)

Đọc mỗi phần dưới đây và quyết định nếu như có sự hành hạ hoặc bỏ bê con em dựa theo luật pháp của tiểu bang Washington. Viết vào khoảng trống **YES** nếu như bạn nghĩ là có sự hành hạ hoặc bỏ bê con em. Viết vào khoảng trống **NO** nếu như bạn nghĩ là không có.

_____A. Tom, 15 tuổi, về trễ bốn tiếng đồng hồ sau khi coi xong bóng rổ trong trường. Bố của Tom đấm vào mặt làm bầm mắt của Tom.

_____B. Vannary được 8 tuổi. Mẹ em đi chợ và để cho Vannary coi sóc 3 đứa em gái: 5, 4 và 2 tuổi. Người mẹ đi trong vòng hai tiếng.

_____C. Hai người cha mẹ phải làm việc cả ngày. Vì vậy vào dịp hè, họ để cô con gái 12 tuổi với trách nhiệm coi sóc nhà cửa và 2 đứa con nhỏ tuổi hơn để họ đi làm.

_____D. Cha mẹ của Dawit's không cho phép Dawit đi dự những buổi tham quan ngoài trường (field trip).

_____E. Jane được 6 tuổi. Bố mẹ của bé vì sợ bé chạy trốn nên trói bé vào giường khi họ đi chợ.

_____F. Tim, 9 tuổi, không vâng lời bố. Nên bị phạt quỳ một tiếng đồng hồ trên gạo sống.

_____G. Maria được16 tuổi. Bố của Maria thường lên giường và giao hợp với Maria.

_____H. Carla, 13 tuổi, bị bố ghẻ sờ ngực và bắt Carla sờ bộ phận sinh dục của ông ta.

_____I. George, độc thân và nuôi ba đứa con. Hàng tháng George chỉ đủ tiền để trả những hoá đơn. Cho nên không đủ tiền để mua quần áo mới cho con cái. Ông ta chỉ cho các con ăn một bữa một ngày. Mặc dầu túng thiếu nhưng George luôn luôn có cách để mua bia và thuốc lá.

_____J. Một người mẹ dùng tay đánh mông đứa con gái 10 tuổi của mình cho đến khi nó khóc.

Mở Rộng Giả Thuyết C

(Expanded Version of Hypothetical C)

Ông bà Smith đi làm và để có con gái lớn, Liza, 12 tuổi, trông coi hai em nhỏ Sara (2 tuổi) và Zachary (9 tuổi) vào mùa hè. Zachary rất phá phách và nghịch ngợm. Sara thường đi ngủ sau khi ăn trưa. Không một đứa con nào được phép cho bạn bè qua chơi khi bố mẹ đi làm.

Liza trưởng thành hơn lứa tuổi của mình. Liza muốn có trách nhiệm này vào mùa hè bởi vì em không thích người giữ trẻ lớn tuổi. Liza đã học qua lớp giữ trẻ và lớp cấp cứu căn bản (first aid) tại Hội Thanh Thiếu Niên Công Giáo (YMCA). Và trong niên học, Liza thường giữ trẻ em cho hàng xóm.

Gia đình của ông bà Smith rất khá về tài chánh. Họ dư sức cho con mình đi nhà trẻ. Cách văn phòng của Ông Smith 5 phút là một nhà trẻ rất tốt và tại Hội Thanh Thiếu Niên Công Giáo cũng có trại hè ban ngày cho trẻ em từ 10-14 tuổi.

Gia đình của ông bà Smith ở trong một cộng đồng phần lớn không có mấy ai ở nhà ban ngày. Chỗ làm việc của hai ông bà cách nhà khoảng nửa tiếng. Mẹ của bà Smith (80 tuổi) ở cách đó 5 phút. Nhà thương gần nhứt cách nhà cũng khoảng chừng 5 cây số. Trong cộng đồng của gia đình Ông Bà Smith có đường dây cấp cứu 911.

Liza có trách nhiệm làm bữa ăn trưa cho cả ba đứa trẻ . Em không được phép dùng bếp hoặc lò nướng nhưng được dùng microwave. Ông bà Smith thay phiên nhau trong ngày gọi Liza để xem mọi việc có yên ổn hay không.

Điệu Vũ Valse của Cha Tôi

(My Papa's Waltz)

Mùi whiskey xông từ hơi thở
Đủ làm bé choáng váng
Nhưng vẫn níu kéo như sự sống
Điệu vũ này không để như theo bóng

Vũ tới khi nghiêng ngữa như
nối niêu loảng xoảng từ ngăn kệ
Mẹ tôi không xóa được sự sầu thâm trong ánh mắt.

Bàn tay từng nắm cổ tay tôi
Có những vết chay da
Mỗi bước tôi đi sai
Tai tôi cảm giác,
Sức lạnh của giây thắt lưng

Thời gian chồng chất lên đầu này
Như bùn cứng thành đất khô
Rồi sau đó điệu Valse ru tôi ngủ
Tay tôi vẫn níu vạt áo này.

Theodore Roethke, 1984

Hai cách hiểu bài thơ "Điệu vũ Valse của Cha tôi"
(Two Interpretations of "My Papa's Waltz")

Cách thứ nhứt:
"Điệu vũ Valse của Cha tôi" là một câu chuyện diễn tả người cha hành hạ đứa con trai.

Cách thứ hai:
"Điệu vũ Valse của Cha tôi" diễn tả những giây phút tình cảm giữa người Cha và đứa con trai.